

*HICKEY FREEMAN TAILORED CLOTHING, INC. VS.
CHARGEURS, S.A., et al*

*ROBERT JEFFERY DIDUCH
June 21, 2018*



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Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 HICKEY FREEMAN TAILORED CLOTHING, INC.,
5 Plaintiff,
6 -against-
7 CHARGEURS, S.A., LAINIÈRE DE PICARDIE BC SAS,
8 LAINIÈRE DE PICARDIE, INC., LAINIÈRE DE PICARDIE
9 (WUJIANG) TEXTILES CO. LTD., AND VERATEX LINING,
10 LTD.,
11 Defendants.
12 Case No. 17-cv-5754 (KPF)
13 -----x
14
15
16 101 Park Avenue
17 New York, New York
18 June 21, 2018
19 9:20 a.m.
20
21
22
23 DEPOSITION of ROBERT JEFFERY DIDUCH,
24 taken before KAREN E. RIGONI, CSR, and Notary
25 Public of the State of New York.

ELLEN GRAUER COURT REPORTING CO., LLC
126 East 56th Street, Fifth Floor
New York, New York 10022
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1 ----- I N D E X -----		
2 WITNESS	EXAMINATION BY	PAGE
3 ROBERT JEFFERY DIDUCH	MS. MORGAN	6
4		
5		
6 ----- E X H I B I T S -----		
7 DEFENDANT'S	DESCRIPTION	FOR I.D.
8 Exhibit 1	Notice of deposition	6
9 Exhibit 2	Updated or amended notice	6
10	of deposition	
11 Exhibit 3	Data sheet for the 630 by	135
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1 S T I P U L A T I O N S
2
3 IT IS HEREBY STIPULATED AND AGREED, by and
4 among counsel for the respective parties hereto,
5 that the filing, sealing and certification of
6 the within deposition shall be and the same are
7 hereby waived;
8 IT IS FURTHER STIPULATED AND AGREED that all
9 objections, except as to form of the question,
10 shall be reserved to the time of the trial;
11 IT IS FURTHER STIPULATED AND AGREED that
12 the within deposition may be signed before any
13 Notary Public with the same force and effect as
14 if signed and sworn to before the Court.
15
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1 (Whereupon, Defendant's Deposition
2 Exhibit Nos. 1 and 2 were marked
3 for identification.)
4 **THE REPORTER:** State your name for the record.
5 **THE WITNESS:** Robert Jeffery Diduch.
6 **THE REPORTER:** What is your address?
7 **THE WITNESS:** 12 Saddle Ridge Trail, three
8 words, Fairport, New York, 14450.
9 R O B E R T J E F F E R Y D I D U C H ,
10 called as a witness herein, having been
11 first duly sworn, was examined and
12 testified as follows:
13 **EXAMINATION**
14 (Witness sworn.)
15 **BY MS. MORGAN:**
16 Q. Good morning, Mr. Diduch. My name is
17 Caroline Morgan and I represent the defendants in
18 the action that Hickey Freeman has brought. Have
19 you ever been deposed before?
20 A. No.
21 Q. Okay. I'll just first give you some
22 ground rules for this deposition. Number one is if
23 I ask you a question and you don't understand it,
24 please let me know because if you don't, then I'm
25 going to assume that you do understand it. When

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1 DIDUCH
2 you're giving responses, if they could be verbal as
3 in words coming out of your mouth as opposed to
4 nodding your head or shaking your head no as opposed
5 to yeah or uh-huh, a "yes" is preferred so that the
6 court reporter can capture your testimony.
7 You can take a break at any time that
8 you'd like, but if a question is pending, please
9 answer that question first and then you can take the
10 break.
11 The object of this deposition is to get
12 your testimony. I'm interested in what you know,
13 not any guessing or speculation, so please keep that
14 in mind when answering the questions.
15 This is a 30(b)6 deposition of
16 Hickey Freeman. Do you understand that?
17 A. No.
18 Q. Okay. Do you understand that your
19 company has appointed you as a representative of it
20 to give testimony on the company's behalf?
21 A. Yes.
22 Q. Okay. And do you understand that your
23 testimony is binding on Hickey Freeman?
24 A. I understand that is stated. I'm not
25 entirely sure what "binding" means.

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1 DIDUCH
2 Q. Okay. Do you understand that your
3 answers are, in effect, answers of Hickey Freeman to
4 the questions that I'm asking you?
5 A. Yes.
6 Q. If you could take a look at Exhibit 1
7 and 2. These are the notices of deposition for
8 Hickey Freeman. And after you've had an opportunity
9 to look at both, please let me know.
10 Oh, let me give you a copy. Sorry about
11 that. Here you go.
12 **MR. D'ANGELO:** Thank you. I'll just note for
13 the record that we lodge an objection to service --
14 to service of Exhibit 2 which was an updated or
15 amended notice of deposition served June 18.
16 Counsel had an e-mail exchange following the service
17 of that amended notice pursuant to which
18 Hickey Freeman lodged an objection and we indicated
19 we would do our best to educate the witness as to
20 the approximately a dozen new or newly expanded
21 topics. And so I just want to note for the record
22 that there was an objection made and that counsel
23 had an e-mail exchange regarding the amended notice.
24 **MR. NIEDERER:** Which one is one and which
25 one's two?

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1 DIDUCH
2 **MR. D'ANGELO:** I believe one is the original
3 and two is the updated.
4 **MS. MORGAN:** One is the February.
5 **MR. NIEDERER:** Okay, great. Thank you.
6 **BY MS. MORGAN:**
7 Q. Have you taken a look at the exhibits,
8 Mr. Diduch?
9 **A. I have.**
10 Q. Okay. And did you have an opportunity to
11 examine Exhibit 2?
12 **A. I did.**
13 Q. Before today at this deposition, had you
14 seen Exhibit 2 before?
15 **A. I don't think so, no.**
16 Q. Is it Hickey Freeman's position that you
17 will testify to the best of your ability as to the
18 subjects in Exhibit 2?
19 **A. Some of them.**
20 Q. Do you know which ones that you would be
21 able to testify to the best of your ability?
22 **A. Do you want me to list them all?**
23 Q. Sure.
24 **MR. D'ANGELO:** I'll note for the record as
25 well that we've designated Mr. Diduch to testify as

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1 DIDUCH
2 to certain topics in the timely served notice dated
3 February 3 as Exhibit 1, and Mr. Abramowicz who's
4 testifying on Monday and Tuesday of next week, to
5 testify regarding certain topics in that same
6 notice, Exhibit 1. This was all set forth in an
7 e-mail exchange between counsel prior to the
8 deposition today. If there was any other issues
9 with respect to the topics or notices, we would
10 expect that those would have been brought to our
11 attention in a timely basis prior to the deposition
12 rather than asking the witness to list the topics
13 today.
14 **BY MS. MORGAN:**
15 Q. You can answer the question.
16 **A. I will list the things that I have direct**
17 **knowledge of first, and then I will list the things**
18 **that I could find out or could have found out**
19 **without having had direct knowledge of them; is that**
20 **acceptable?**
21 Q. Is your -- though you haven't seen
22 Exhibit 2 before today, did you discuss Exhibit 2 or
23 prepare for any of the new portions in Exhibit 2?
24 **MR. D'ANGELO:** You discuss it with anyone
25 or --

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1 DIDUCH
2 **THE WITNESS:** I think we talked last night
3 about some of the items.
4 **BY MS. MORGAN:**
5 Q. Okay. What did you do to prepare for
6 this deposition?
7 **A. I had a meeting with my attorney**
8 **yesterday which lasted approximately six hours, six**
9 **and a half hours. We had a phone call last week.**
10 **I spoke to Mark Corbett. I spoke to Claudia**
11 **Musialowski. I spoke to Roy Nicholls. I spoke to**
12 **Eva Cossio. I spoke to Frank Casiano. I spoke**
13 **to -- I can't remember her name -- a machine**
14 **operator on the floor.**
15 Q. Do you remember her first name or last
16 name?
17 **A. I don't.**
18 Q. And after Roy -- in between Roy and
19 Frank, who else did you speak with?
20 **A. I don't remember who I listed before.**
21 Q. Mark, Claudia, Roy, another individual,
22 Frank, and a female on the machine?
23 **A. Eva Cossio.**
24 Q. Eva?
25 **A. Eva, E-v-a.**

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1 **DIDUCH**
2 Q. We can get the spelling later.
3 And did you speak to anybody else?
4 **A. I spoke to Darleni (phonetic) and I can't**
5 **remember exact last name. That's all I'm drawing**
6 **right now.**
7 Q. And the call that you had, was that with
8 an attorney?
9 **A. Yes.**
10 Q. And how long was that call?
11 **A. Forty minutes.**
12 Q. And the meeting you had yesterday for
13 six and a half hours, was that just with counsel?
14 **A. And Alan Abramowicz showed up at one**
15 **point.**
16 Q. Anybody else?
17 **A. No.**
18 Q. Did you review any documents to prepare
19 for your deposition?
20 **A. We looked at some previous e-mails and,**
21 **yes, documents.**
22 Q. To your knowledge, were all the documents
23 that you've reviewed in preparation for this
24 deposition produced in this litigation?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. Other than documents, did you look at
3 anything else such as videos?
4 **A. Yes.**
5 Q. Okay. Which videos did you view?
6 **A. I looked at a video that I had on my**
7 **phone of a dry cleaner.**
8 Q. Do you know if that video was produced in
9 this litigation?
10 **A. I thought it was.**
11 Q. And what was going on in that video?
12 **A. A jacket was being pressed.**
13 Q. At a -- by a dry cleaner at the Rochester
14 plant or at some other location?
15 **A. At some other location.**
16 Q. Do you know which location?
17 **A. It was in Little Rock, Arkansas.**
18 Q. Other than that video, did you see any
19 other video?
20 **A. No.**
21 Q. What does Mark Corbett do?
22 **A. He's the director of maintenance.**
23 Q. And Claudia?
24 **A. She's our engineer.**
25 Q. Eva?

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1 **DIDUCH**
2 **A. She's the supervisor of the fusing section.**
3 Q. Frank?
4 **A. He's one of the mechanics.**
5 Q. That's employed by Hickey Freeman?
6 **A. Yes.**
7 Q. And the female machine operator that you
8 mentioned, what machine does she operate?
9 **A. A fusing press.**
10 Q. Are you Canadian?
11 **A. Yes.**
12 Q. Do you also have a Canadian residence?
13 **A. No.**
14 Q. There are several defendants in this
15 lawsuit, and some of their names may sound --
16 **MR. D'ANGELO:** Sorry, are you done with this
17 exhibit?
18 **MS. MORGAN:** Yes.
19 **BY MS. MORGAN:**
20 Q. -- some of their names may sound
21 familiar. In fact, you can take -- take a look at
22 one of those exhibits if you'd like to see the
23 caption.
24 Are you -- do you know the difference
25 between the defendants in this action, for example,

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1 **DIDUCH**
2 Lainière de Picardie BC SAS and Lainière de
3 Picardie, Inc.?
4 **A. I'm not entirely certain the different**
5 **between those two.**
6 Q. Okay. I'd ask that when you're answering
7 a question, if you're not sure about which defendant
8 you're referring to, just to let me know and not to
9 guess as to a defendant's name, okay?
10 What is your highest form of education,
11 Mr. Diduch?
12 **A. Technical college.**
13 Q. And you understand that you're also here
14 as an individual witness?
15 **A. Yes.**
16 Q. What was the name of your technical
17 college?
18 **A. L'Academie Des Couturiers Canadiens.**
19 Q. What degree did you obtain from there?
20 **A. Fashion designer.**
21 Q. And does that have a, you know, for
22 example, bachelor's as a BA? Is there some kind of
23 distinction with that?
24 **A. There isn't an equivalent to the American**
25 **system. It's a technical college degree.**

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1 **DIDUCH**
2 Q. How long did you study to obtain that
3 degree?
4 **A. Three years.**
5 Q. And before that, what was your education?
6 **A. High school.**
7 Q. Did you obtain a license or anything of
8 that nature?
9 **A. No.**
10 Q. After the fashion designer degree, did
11 you continue with any other coursework from then to
12 today?
13 **A. Specifically fashion related?**
14 Q. Any coursework.
15 **A. Yes.**
16 Q. What coursework is that?
17 **A. Photography.**
18 Q. Is that a hobby?
19 **A. Yes.**
20 Q. Any other coursework?
21 **A. Languages.**
22 Q. Anything else?
23 **A. Not that comes to mind.**
24 Q. Is one of those languages French?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. What year did you obtain your fashion
3 designer degree?
4 **A. 1996.**
5 Q. And you mentioned it was a technical
6 school. Can you describe some of the coursework
7 that you took at -- while obtaining your fashion
8 designer degree?
9 **A. Pattern design, draping, fabric**
10 **selection, garment construction, fashion**
11 **illustration. I think that's it.**
12 Q. What was the -- did you say you thought
13 that was it? Was there something else?
14 **A. That's it. It was a long time ago.**
15 Q. What was the garment construction class
16 about?
17 **A. It was learning how to sew garments.**
18 Q. By hand or wooden sheens?
19 **A. Both.**
20 Q. Did you learn how to operate machinery
21 during that --
22 **A. Yes.**
23 Q. -- coursework?
24 Any specific machinery --
25 **MR. D'ANGELO:** Give her a chance to ask the

Page 18

1 **DIDUCH**
2 question.
3 **THE WITNESS:** Sorry.
4 **BY MS. MORGAN:**
5 Q. Any specific machinery that you recall?
6 **A. Lockstitch machine.**
7 Q. It that's call lockstitch --
8 **A. Lockstitch machine.**
9 Q. Any others?
10 **A. Hand iron.**
11 Q. Anything else?
12 **A. No.**
13 Q. Just those two?
14 **A. Uh-huh.**
15 Q. Your current title now at Hickey Freeman
16 now is what?
17 **A. Vice President, Technical Design.**
18 Q. When did you start at Hickey Freeman?
19 **A. February 2, 2016.**
20 Q. Have you been VP of tech design since
21 then?
22 **A. Since very shortly after.**
23 Q. What was your first title when you
24 started?
25 **A. Director of technical design.**

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1 **DIDUCH**
2 Q. How long were you director of technical
3 design?
4 **A. A month or two.**
5 Q. So you were promoted in a month or two?
6 **A. It was initially the intention to bring**
7 **me in as a vice president, but because there were**
8 **some politics involved with certain employees, they**
9 **decided to delay that particular title.**
10 Q. Who do you report to as VP of technical
11 design?
12 **A. Alan Abramowicz.**
13 Q. And how do you report to him?
14 **A. By telephone, by e-mail.**
15 Q. Any other way?
16 **A. When he's in Rochester, in person.**
17 Q. Any other way than that?
18 **A. No.**
19 Q. Do you ever have weekly or monthly
20 reporting that's memorialized in documents?
21 **A. No.**
22 Q. Do you have set meeting dates where you
23 report to him?
24 **A. Not individually.**
25 Q. Do you report to him along with any other

Page 20

1 **DIDUCH**
2 individuals?
3 **A. Not together.**
4 Q. When you mentioned "not individually",
5 what did you mean by that?
6 **A. The only scheduled meetings that I**
7 **participate in where he is involved is either a**
8 **group meeting or scheduled meetings with our**
9 **customers.**
10 Q. And the group meetings, what are those?
11 **A. We have a weekly management meeting.**
12 Q. And any other scheduled meetings?
13 **A. With our customers.**
14 Q. And that's when?
15 **A. We have one meeting on Thursdays at**
16 **11 o'clock, and another one that floats, but it's**
17 **weekly.**
18 Q. And it's predetermined with your
19 customers?
20 **A. Yes.**
21 Q. So every Thursday your customers speak
22 with you?
23 **A. One particular customer.**
24 Q. Which one?
25 **A. Trunk Club.**

Page 21

1 **DIDUCH**
2 Q. And the floating one, is that a
3 particular customer?
4 **A. Yes.**
5 Q. Which one?
6 **A. Ralph Lauren.**
7 Q. Other than Ralph Lauren and the Trunk
8 Club, any other scheduled meetings with customers?
9 **A. No.**
10 Q. The weekly management meeting, who is
11 involved in that?
12 **A. Myself, Alan Abramowicz, Roy Nicholls was**
13 **involved, Lynda Forken was involved, Lutrer Danier**
14 **(phonetic), Cindy Arandt, Chris Linaris. I think**
15 **that was it.**
16 Q. Do you ever report to Stephen Granovsky?
17 **A. No.**
18 Q. Has Roy Nicholls been replaced?
19 **A. We're attempting to.**
20 Q. So who's doing Roy Nicholls' job now, if
21 anybody?
22 **A. Donny Wray and Pranay Shah.**
23 Q. And what is the purpose of the weekly
24 management meetings?
25 **A. To make all the other department heads**

Page 22

1 **DIDUCH**
2 **aware of generally what's going on in the company.**
3 Q. What do you -- what are you generally
4 responsible for reporting about at the weekly
5 meetings, if anything?
6 **A. Either design items, samples, development**
7 **issues, quality issues.**
8 Q. Where were you before Hickey Freeman?
9 **A. Hardwick Clothes.**
10 Q. How long were you there?
11 **A. Approximately two years.**
12 Q. Is that a men's -- menswear company?
13 **A. Yes.**
14 Q. Tailored?
15 **A. Yes.**
16 Q. And before Hardwick, where were you?
17 **A. It was called W. Diamond Group.**
18 Q. How long were you there?
19 **A. Approximately four years.**
20 Q. At Hardwick, what was your title?
21 **A. Chief creative officer.**
22 Q. And why did you leave Hardwick?
23 **A. A combination of factors.**
24 Q. Can you tell me what they are?
25 **A. A disagreement with the owner of Hardwick**

Page 23

1 **DIDUCH**
2 **and an offer from the owners of Hickey Freeman.**
3 Q. What did you disagree with the owner
4 about?
5 **A. The business strategy that he wanted.**
6 Q. What was that?
7 **A. He thought he could keep a factory full**
8 **making only navy blazers and khaki trousers.**
9 Q. Did you seek out Hickey Freeman or did
10 Hickey Freeman recruit you?
11 **A. Hickey Freeman recruited me.**
12 Q. Did you know somebody from Hickey Freeman
13 before you started working there?
14 **A. Yes.**
15 Q. Who's that?
16 **A. Most of the people.**
17 Q. Was there a specific person that
18 recruited you from Hickey Freeman?
19 **A. Alan Abramowicz.**
20 Q. How long have you known Alan?
21 **A. I would guess five or six years.**
22 Q. And what was your title at W. Diamond?
23 **A. I was Vice President of Design.**
24 Q. And why did you leave W. Diamond?
25 **A. I was offered an opportunity at Hardwick**

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1 **DIDUCH**
2 **to take a bankrupt company and reconvert it and try**
3 **to turn the production line around.**
4 Q. Is W. Diamond in the business of menswear?
5 **A. Yes.**
6 Q. And tailored as well?
7 **A. Yes.**
8 Q. And before W. Diamond?
9 **A. Empire Clothing.**
10 Q. What were they in the business of at the
11 time you were employed?
12 **A. Men's tailored clothing.**
13 Q. And how long were you there?
14 **A. I'd say two years maybe.**
15 Q. And your title?
16 **A. Designer.**
17 Q. And before Empire?
18 **A. Dongsan Cambridge.**
19 Q. And what are they in the business of?
20 **A. Men's suits.**
21 Q. Is that also tailored?
22 **A. Yes.**
23 Q. And what was your title there?
24 **A. Designer.**
25 Q. And did you have any job after your

<p style="text-align: right;">Page 25</p> <p>1 DIDUCH</p> <p>2 technical degree and before Dongsan?</p> <p>3 A. Yes.</p> <p>4 Q. Where was that?</p> <p>5 A. Before Dong San was S. Cohen; before that</p> <p>6 was UTEX Corporation; before that was Samuelsohn;</p> <p>7 and before that was La Maison Deux Claroche</p> <p>8 (phonetic).</p> <p>9 Q. At La Maison, what was your title?</p> <p>10 A. I didn't have one.</p> <p>11 Q. What did you do?</p> <p>12 A. I made patterns. I made samples. I</p> <p>13 coordinated production with factory. I packed</p> <p>14 boxes. I did anything that was asked of me.</p> <p>15 Q. How long were you there?</p> <p>16 A. A year.</p> <p>17 Q. And at Samuelsohn, how long were you</p> <p>18 employed by them?</p> <p>19 A. About two years.</p> <p>20 Q. Is W. Diamond your longest job?</p> <p>21 A. That or UTEX.</p> <p>22 Q. Okay. And at Samuelsohn, what was your</p> <p>23 title?</p> <p>24 A. I was a section foreman.</p> <p>25 Q. What does that mean?</p>	<p style="text-align: right;">Page 27</p> <p>1 DIDUCH</p> <p>2 A. I was Vice President of Design and Quality.</p> <p>3 Q. For how long?</p> <p>4 A. Two, two and a half years.</p> <p>5 Q. What did you do for -- with regards to</p> <p>6 quality at S. Cohen?</p> <p>7 A. I was responsible for all aspects of</p> <p>8 quality.</p> <p>9 Q. There was nobody else that headed quality</p> <p>10 at S. Cohen. It was you?</p> <p>11 A. It was me.</p> <p>12 Q. And is that menswear as well?</p> <p>13 A. Yes.</p> <p>14 Q. Tailored?</p> <p>15 A. Yes.</p> <p>16 Q. And Samuelsohn, it was tailored men's</p> <p>17 suits?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know what strikeback is?</p> <p>20 A. Yes.</p> <p>21 Q. What does that mean to you?</p> <p>22 A. Strikeback is when the resin that is</p> <p>23 adhered to one side of a substrate is passed through</p> <p>24 to the opposite side of the fabric.</p> <p>25 Q. Through your career from La Maison to</p>
<p style="text-align: right;">Page 26</p> <p>1 DIDUCH</p> <p>2 A. I was responsible for a department on the</p> <p>3 sewing floor.</p> <p>4 Q. As a section foreman, were you involved</p> <p>5 with design at all?</p> <p>6 A. To a certain extent.</p> <p>7 Q. How so?</p> <p>8 A. I worked with the designer because I had</p> <p>9 design background. It wasn't their initial</p> <p>10 intention to have me as a section foreman when they</p> <p>11 brought me in.</p> <p>12 Q. What was their initial intention?</p> <p>13 A. They wanted me to be the technical</p> <p>14 advisor to the factory manager.</p> <p>15 Q. Did you later become the technical</p> <p>16 advisor?</p> <p>17 A. No.</p> <p>18 Q. So you were a section foreman the entire</p> <p>19 time at Samuelsohn?</p> <p>20 A. Correct.</p> <p>21 Q. And at UTEX, what did you do?</p> <p>22 A. I worked as an assistant designer.</p> <p>23 Q. For how long?</p> <p>24 A. Approximately four or five years.</p> <p>25 Q. And at S. Cohen?</p>	<p style="text-align: right;">Page 28</p> <p>1 DIDUCH</p> <p>2 Hardwick, had you ever seen strikeback?</p> <p>3 A. Yes.</p> <p>4 Q. When was that?</p> <p>5 A. At S. Cohen.</p> <p>6 Q. Can you tell me about that instance?</p> <p>7 A. There were nonfusible parts that were</p> <p>8 adhering to each other when they were being put</p> <p>9 through the fusible press.</p> <p>10 Q. Did you determine what was causing that?</p> <p>11 A. With some assistance.</p> <p>12 Q. And what was the cause?</p> <p>13 A. That we were fusing the pieces together</p> <p>14 in a technique known as sandwich fusing, so there</p> <p>15 would be two pieces of interlining that were</p> <p>16 connected, and as it went through, some of the resin</p> <p>17 was seeping through connecting the pieces together.</p> <p>18 Q. So was it a -- was the cause that you</p> <p>19 were sandwich fusing?</p> <p>20 A. Yes.</p> <p>21 Q. At too high a temperature?</p> <p>22 A. No.</p> <p>23 Q. Was it the sheer fact of sandwich fusing</p> <p>24 as opposed to some other method of fusing?</p> <p>25 A. Yes.</p>

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1 **DIDUCH**
2 Q. And what was the proper method that would
3 have resolved the issue?
4 **MR. D'ANGELO:** Objection.
5 **THE WITNESS:** It's -- it's a -- an accepted
6 method of fusing. We were shown that we could
7 either peel it or we could fuse them apart as
8 opposed to sandwich fusing.
9 **BY MS. MORGAN:**
10 Q. You said you had some assistance. Was
11 that somebody in S. Cohen?
12 **A. No.**
13 Q. Was that an outside entity?
14 **A. Yes.**
15 Q. What entity?
16 **A. It was Vera Herman.**
17 Q. Is that a person or a company?
18 **A. That's a person.**
19 Q. And what did Vera Herman do?
20 **A. She owned Veratex.**
21 Q. And what services did Veratex provide
22 with regard to that analysis?
23 **A. Veratex was a supplier of certain**
24 **interlinings to us, and she was also considered one**
25 **of the leading industry experts in the matter of**

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1 **DIDUCH**
2 **fusible, and so she came to our company and she**
3 **taught me a lot of things about fusibles.**
4 Q. Today do you believe that Veratex --
5 strike that question.
6 Do you -- do you have any understanding
7 as to whether Veratex still exists today?
8 **A. Yes.**
9 Q. And is -- do you have any opinion as to
10 whether Veratex has any expert opinion with regards
11 to interlining?
12 **MR. D'ANGELO:** Objection.
13 **MR. NIEDERER:** Objection to form.
14 **THE WITNESS:** Yes.
15 **BY MS. MORGAN:**
16 Q. And what is that opinion?
17 **A. They, as distributors of interlining,**
18 **know a few things about the product they're selling.**
19 Q. Is Vera Herman still alive?
20 **A. No.**
21 Q. Is there somebody at Veratex that you
22 believe has an expert opinion on interlining?
23 **MR. D'ANGELO:** Objection.
24 **MR. NIEDERER:** Objection to form.
25 **THE WITNESS:** Not to the extent that she did.

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1 **DIDUCH**
2 **MR. D'ANGELO:** Did you get my objection,
3 Karen?
4 **THE REPORTER:** Yes, I did.
5 **THE WITNESS:** Not to the extent that she did.
6 **BY MS. MORGAN:**
7 Q. And who do you believe has some
8 knowledge, but as you noted to a lesser degree?
9 **A. Barry Diamond.**
10 Q. And anybody else?
11 **A. No.**
12 Q. In your -- in your lay opinion, do you
13 believe that Barry Diamond is an expert in
14 interlining?
15 **MR. D'ANGELO:** Objection.
16 **MR. NIEDERER:** Objection to form.
17 **THE WITNESS:** I don't know.
18 **BY MS. MORGAN:**
19 Q. So at Hickey Freeman as VP of Design,
20 what are your job duties?
21 **A. I'm responsible for product development**
22 **and pattern making. I oversee quality.**
23 Q. Anything else?
24 **A. That's pretty much the sum of it.**
25 Q. Is there pretty much something else?

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1 **DIDUCH**
2 **MR. D'ANGELO:** Objection.
3 **THE WITNESS:** (Indicating.)
4 **BY MS. MORGAN:**
5 Q. No? Is that a no?
6 **A. No, sorry.**
7 Q. No problem.
8 For the product development, what does
9 that entail?
10 **A. Creating styles, whether it be original**
11 **sketches or interpreting sketches or photos of**
12 **garments, creating patterns for that, selecting**
13 **trims when necessary for those garments, supervising**
14 **the production of the first samples of those**
15 **garments, and subsequently supervising the**
16 **production of those garments.**
17 Q. So when -- when Hickey Freeman sells a
18 suit, are you the person that originally designed
19 such a suit, for example?
20 **A. Most of the time.**
21 Q. And do you design every detail such as
22 the composition of the suit and the way it looks and
23 all the details with buttons or pockets and whatnot?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** Not all of them.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Which ones are you responsible for?
4 **A. Everything except buttons and lining.**
5 Q. Who does -- who's responsible for buttons
6 and lining currently?
7 **A. Aliya Morehead.**
8 Q. When you come up with a design -- and is
9 it fair to characterize that as design? Do you know
10 what I mean when I'm asking -- when I'm referring to
11 when you come up with a design?
12 **A. Are you specific -- are you using it as a**
13 **noun or a verb?**
14 Q. A noun. As in a picture of a suit that
15 you'd like to create. Do you understand that?
16 **A. Yes.**
17 Q. What is the process by which, if any,
18 that is approved for production?
19 **A. We will first make a prototype. We will**
20 **review the prototype. We will make corrections if**
21 **necessary. We will often make a second prototype.**
22 **Then we will go to making showroom samples and**
23 **salesmen samples. And then once those have been**
24 **reviewed, then we could go into production with it.**
25 Q. By "prototype", do you mean an actual

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1 DIDUCH
2 physical sample of the suit?
3 **A. Yes.**
4 Q. And when you're discussing that you would
5 display that with a showroom or salesroom, is that
6 to get potential customer feedback?
7 **A. And sales, yes.**
8 Q. Oh, you actually sell the prototypes
9 before mass production?
10 **A. This is used as a selling tool to show**
11 **the customer what this garment would look like and**
12 **they place orders against it.**
13 Q. And when -- when such a prototype is
14 created, is there any document that memorializes the
15 components of the prototype?
16 **A. Yes.**
17 Q. What is that called, if anything?
18 **A. What we call a spec sheet and a**
19 **manufacturing statement.**
20 Q. What is on the spec sheet?
21 **A. Details of certain trim components and**
22 **construction items.**
23 Q. And by spec, do you mean specification?
24 **A. Yes.**
25 Q. So the -- can you list for me the

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1 DIDUCH
2 information that's provided on the specification
3 sheet?
4 **A. There's a general description of the**
5 **garment including certain design details, certain**
6 **tools to be used in the construction of the garment,**
7 **some measurements, and some trim items.**
8 Q. Anything else?
9 **A. That's it.**
10 Q. The general description, does it also
11 include what it looks like?
12 **A. Yes.**
13 Q. Is it a photo or a sketch?
14 **A. A sketch.**
15 Q. And the design details, what does that
16 mean generally?
17 **A. It means the shape of the lapel, the type**
18 **of pockets, the type of vents, the type of finishing**
19 **of the sleeve, any other relevant design details,**
20 **whether it's fully lined or partially lined, how**
21 **it's lined, that's in sum.**
22 Q. Does it also include whether the suit
23 will use interlining or not?
24 **A. Yes.**
25 Q. When you're creating the prototype, do

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1 DIDUCH
2 you also pick the article of interlining that will
3 be used?
4 **A. Yes.**
5 Q. Do you personally do that selection?
6 **A. In most cases.**
7 Q. Who else would do that?
8 **A. Donny Wray.**
9 Q. What factors do you consider when
10 selecting an interlining?
11 **A. I consider the weight, the hand feel, the**
12 **elasticity, the bond strength, the construction of**
13 **it, the composition of it, that's it.**
14 Q. And when you said the construction of it
15 and the composition of it, is it fair to say that
16 "it" is the suit?
17 **A. No. The interlining.**
18 Q. Do you also consider the type of fabric
19 that will be used in the suit?
20 **A. Yes.**
21 Q. And is the decision over what interlining
22 to use exclusively yours?
23 **A. No.**
24 Q. Excuse me, let me rephrase that question.
25 After you decide on a specific type of

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1 DIDUCH
2 interlining, does anybody approve that decision?
3 MR. D'ANGELO: Objection.
4 THE WITNESS: No, not specifically.
5 BY MS. MORGAN:
6 Q. Does somebody generally approve it?
7 A. I may have comments from our chief
8 creative officer limited to whether he thinks it may
9 be too stiff or too soft.
10 Q. Who's the chief creative officer?
11 A. Arnold Silverstone.
12 Q. We'll come back to that topic.
13 Do you -- in your role as VP of design,
14 do you supervise anybody?
15 A. Yes.
16 Q. Who do you supervise?
17 A. Salvatore Miceli.
18 Q. Anybody else?
19 A. Not directly and not at this moment.
20 Q. Who do you indirectly supervise?
21 A. Nico Manno reports to Sal.
22 Q. What is Salvatore -- were you going to
23 say something?
24 A. I was going to say Galena -- and I'm
25 drawing a blank on her last name. I can't believe I

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1 DIDUCH
2 can't remember her last name.
3 Q. We can put a space holder in the --
4 A. It's Russian anyway, and I'm not sure how
5 to spell it.
6 Q. Do you remember what letter it starts
7 with?
8 A. L, Lisankard (phonetic) I believe.
9 Q. Okay. And she -- Galena is a woman?
10 A. Yes.
11 Q. Does Galena report to Sal?
12 A. She is now reporting to me.
13 Q. What is Sal's title?
14 A. He is now Vice President of Quality.
15 Q. So are you the -- you testified that your
16 job entails quality analyses, correct?
17 A. Yes.
18 MR. D'ANGELO: Objection.
19 BY MS. MORGAN:
20 Q. Does -- is there anybody higher than you
21 that is responsible for quality?
22 A. No.
23 Q. What does Nico do?
24 A. Nico works under Sal on the production
25 floor.

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1 DIDUCH
2 Q. In quality?
3 A. In quality and in general assistance.
4 Q. Is Nico a personal assistant to Sal?
5 A. Not a personal assistant, but he assists
6 in manners on the shop depending on what's going
7 through the shop.
8 Q. And Galena?
9 A. Galena's an assistant pattern maker.
10 Q. Do you have daily duties that you are
11 required to fulfill with regard to your quality
12 portion of your job?
13 A. They're not enumerated.
14 Q. Do you have any set responsibilities with
15 regard to the quality portion that may not be daily,
16 but, you know, some weekly endeavor you do with
17 regard to the quality component of your job?
18 A. They're not enumerated.
19 Q. How do you know how to do that portion of
20 your job?
21 A. I know how to do it based on 20-some odd
22 years of experience doing it.
23 Q. Did you receive any training when you
24 joined Hickey Freeman?
25 A. Inasmuch as I was made familiar with the

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1 DIDUCH
2 product they were making.
3 Q. And by that you mean men's tailored suits?
4 A. Specifically the type of product they
5 were making.
6 Q. Do you mean the specific style? What do
7 you mean by that?
8 A. The styles, the type of fits of garments
9 they were making.
10 Q. And how did you get that training?
11 A. I worked with the person I was to
12 replace.
13 Q. Who did you replace?
14 A. Paul Farrington.
15 Q. Last week, for example, what are some
16 things that you did under the -- that fall under the
17 umbrella of your quality role of your job?
18 A. I oversaw production of our samples and
19 samples for other customers of ours.
20 Q. Anything else?
21 A. Not last week.
22 Q. Within Hickey Freeman, is there a quality
23 control department?
24 A. There are Sal and Nico.
25 Q. And yourself?

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1 DIDUCH
2 **A. I guess, yes.**
3 Q. Are there divisions within that, for
4 example, quality control that relates to shipping or
5 quality control that relates to manufacturing? Can
6 you describe it, if at all?
7 **A. Within each section in the sewing floor**
8 **and the cutting room, there's a section supervisor,**
9 **also known as a foreman when I was at Samuelsohn.**
10 **Those supervisors are responsible for a certain**
11 **number of quality checks within their section.**
12 Q. How many sections are on the floor?
13 **A. I think there's twelve.**
14 Q. And when we say on the -- when you say
15 "on the floor", do you mean the manufacturing floor
16 of the Rochester plant?
17 **A. That is correct.**
18 Q. And how many manufacturing floors does it
19 have?
20 **A. When I use the term "the floor", it's a**
21 **term to mean the factory. It's not in specific**
22 **reference to a physical floor or a level.**
23 Q. How many quality sections does the
24 factory have?
25 **A. They're not quality sections. They're**

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1 **DIDUCH**
2 **sub assembly sections. For example, one section**
3 **sews the sleeves together; one section sews the**
4 **collars together; there's another section that**
5 **assembles the collar to the coat, for example.**
6 Q. How many sections of the factory are
7 there?
8 **A. As I said, I think there's about twelve.**
9 Q. Twelve. So would it be fair to say that
10 then there's twelve foremen?
11 **A. Yes.**
12 Q. During your time at Hickey Freeman, has
13 there ever been less than one foreman per section?
14 **A. No.**
15 Q. Is it fair to say that Sal, Nico, and
16 yourself are the employees of the quality
17 department?
18 **A. I phrase it differently.**
19 Q. How do you phrase it?
20 **A. I tell people that every single person in**
21 **the building is a quality inspector.**
22 Q. Who do you tell that to?
23 **A. Everybody.**
24 Q. You mean customers?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. Once a -- when you're in the process of
3 designing a suit, do you make any determinations at
4 that point with regard to quality, quality checks or
5 anything of that nature?
6 **A. Yes.**
7 Q. And what do you do?
8 **A. It depends on the fabric.**
9 Q. Are there any protocols that you follow
10 while you're designing a suit to check for quality?
11 **MR. D'ANGELO:** Objection.
12 **THE WITNESS:** It depends on the style.
13 **BY MS. MORGAN:**
14 Q. So there's no set, for example, document
15 like a checklist of things that you go through
16 concerning quality when you're in the process of
17 designing the suit?
18 **A. Not me personally.**
19 Q. Does Hickey Freeman have any kind of
20 document like that that you know of?
21 **A. Yes.**
22 Q. And what is that called?
23 **A. We have a few of them. We have a DHU**
24 **report, which means defects per hundred units, and**
25 **we have certain documents that are posted at six QC**

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1 **DIDUCH**
2 **stations that list certain general items that they**
3 **need to check for.**
4 Q. And by QC, you mean quality control?
5 **A. Quality control.**
6 Q. Okay. Is there anything else other than
7 the DHU report and the six -- the docs at the six QC
8 stations?
9 **A. We document recuts, and when the**
10 **made-to-measure garments are inspected, there's also**
11 **a report that is provided to me about rejected units**
12 **and the causes.**
13 Q. Is that when they're rejected on the
14 floor?
15 **A. At final inspection.**
16 Q. What about with non made-to-measure
17 suits, are those -- if those are rejected, do you
18 also get a report about that?
19 **A. The DHU report.**
20 Q. And the docs at the six QC stations, what
21 are those?
22 **A. They're inspection stations where a**
23 **person is tasked with looking at the garments and**
24 **looking for specific defects, looking generally at**
25 **the appearance and the sewing of the garments before**

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1 **DIDUCH**
2 **they're either passed into pressing or passed out of**
3 **the pressing line into shipping.**
4 Q. And by documents, are they documents that
5 are, you know, affixed to the machines?
6 A. **Yes.**
7 Q. All six of them?
8 A. **Yes.**
9 Q. In the manufacturing process after you've
10 designed and it's ready to be produced, what are the
11 quality control points that a suit would go through,
12 if any?
13 **MR. D'ANGELO:** You're asking about after full
14 construction of the suit?
15 **BY MS. MORGAN:**
16 Q. I'm asking about when it's manufactured.
17 A. **During the manufacturing process?**
18 Q. Yes.
19 A. **There are approximately 78 points of**
20 **inspection that the supervisors are responsible for**
21 **which are documented in the DHU report. I mentioned**
22 **the six final inspection points. Sal, Nico, and I**
23 **walked through the production lines looking randomly**
24 **at things. And the supervisors are on the floor and**
25 **they are checking random sampling of bundles.**

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1 **DIDUCH**
2 Q. Any other quality points?
3 A. **In the sense that I make every single**
4 **operator in the factory responsible for the output**
5 **of their operations, but also the entire garment,**
6 **meaning to the extent possible, I'd like them**
7 **looking at as much as possible on the garment as it**
8 **goes through.**
9 Q. Anything else?
10 A. **That's about it.**
11 Q. What you're referring to with the
12 operators, do you mean that, for example, if they're
13 tasked with affixing something on the shoulder,
14 you'd also like them to look at the entire component
15 of the piece they're working on?
16 A. **I would like them to feel that if they**
17 **see something else that's not related to their job**
18 **that is incorrect, that they stop that garment**
19 **rather than passing it through.**
20 Q. And how do you communicate, if at all,
21 that message to them?
22 A. **By stating precisely that. By rewarding**
23 **behavior when they do stop things.**
24 Q. And do you discourage that behave --
25 discourage the lack of making those observations

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1 **DIDUCH**
2 when you notice them?
3 A. **Yes.**
4 Q. The supervisors you mentioned that walk
5 through the floor and check, do you mean the
6 foremen?
7 A. **Yes.**
8 Q. And when you walk through with Sal, do
9 you divide up certain sections of the floor or is it
10 random?
11 A. **It's random.**
12 Q. And is there any set times of the day
13 that you make those walkthroughs?
14 A. **I try to make them sometime early morning**
15 **and then early after lunch and then another two**
16 **times whenever during the day.**
17 Q. And is Sal walking at the same time you
18 are generally?
19 A. **Not with me, no. He's just always on the**
20 **floor.**
21 Q. And the 78 points of inspection that you
22 said is in the DHU report, does the DHU report state
23 whether the garment has passed each of the
24 78 points?
25 **MR. D'ANGELO:** You mean for every single

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1 **DIDUCH**
2 garment you're asking?
3 **BY MS. MORGAN:**
4 Q. Yes. There's a DHU report for every
5 garment, right?
6 A. **No.**
7 Q. Oh, okay.
8 A. **The DHU report has a list of the 78**
9 **inspection points. The supervisors within their**
10 **section would have a list of a certain number of**
11 **those inspection points. They're responsible for**
12 **looking at these points on the bundles of garments.**
13 **These bundles of garments have a bar code on them**
14 **that allows to track the garments. They're**
15 **responsible for scanning that bar code which**
16 **documents that they have looked at that bundle, and**
17 **they're responsible for entering the number of**
18 **rejects out of that bundle.**
19 Q. And that review done by the foreman, --
20 A. **Yes.**
21 Q. -- correct, is that recorded and saved?
22 A. **Yes.**
23 Q. Where is that information stored?
24 A. **It's an Excel spread -- a series of Excel**
25 **spreadsheets that are stored on a server.**

<p style="text-align: right;">Page 49</p> <p>1 DIDUCH</p> <p>2 Q. Have you ever heard of the AS900?</p> <p>3 A. AS400.</p> <p>4 Q. AS400, you've heard of it?</p> <p>5 A. Yes.</p> <p>6 Q. Is that where that information is stored?</p> <p>7 A. No.</p> <p>8 Q. Is there a certain amount of time, if</p> <p>9 any, that the information is saved that's in that</p> <p>10 Excel spreadsheet that you mentioned?</p> <p>11 A. I don't know.</p> <p>12 Q. Can you remind me what the acronym DHU</p> <p>13 stands for?</p> <p>14 A. Defects per hundred units.</p> <p>15 Q. So is there one DHU report for every</p> <p>16 100 suits?</p> <p>17 A. No. There's one report every week.</p> <p>18 Q. If a suit is produced and it goes through</p> <p>19 the whole manufacturing process and one wanted to</p> <p>20 see if it was reviewed for quality, is there a way</p> <p>21 you can determine if one single unit was reviewed?</p> <p>22 A. We could determine if a bundle was</p> <p>23 reviewed.</p> <p>24 Q. And the bundle is the -- can you tell me</p> <p>25 what a bundle means?</p>	<p style="text-align: right;">Page 51</p> <p>1 DIDUCH</p> <p>2 A. Yes.</p> <p>3 Q. And so the recording there, would that be</p> <p>4 the tag?</p> <p>5 A. The tag.</p> <p>6 Q. And are those tags saved?</p> <p>7 A. No.</p> <p>8 Q. So once a suit is returned on the floor</p> <p>9 to be repaired, after it's repaired, is the tag</p> <p>10 flown away?</p> <p>11 A. It goes back to QC. They look at the tag</p> <p>12 to see what has to be corrected. They check the</p> <p>13 suit to see if it was corrected. If it was</p> <p>14 corrected, it passes. If it was not corrected, it</p> <p>15 goes back. And if it can't be corrected, then it</p> <p>16 would be damaged.</p> <p>17 Q. And if it's corrected, what do they do</p> <p>18 with the tag?</p> <p>19 A. I don't know.</p> <p>20 Q. Did you come up with the 78 points of</p> <p>21 inspection that are used?</p> <p>22 A. No.</p> <p>23 Q. Who did, if you know?</p> <p>24 A. I don't know.</p> <p>25 Q. Have you ever mended anything to the</p>
<p style="text-align: right;">Page 50</p> <p>1 DIDUCH</p> <p>2 A. A bundle is essentially a unit of</p> <p>3 transport, whether it's one garment or multiple</p> <p>4 garments together.</p> <p>5 Q. And to determine if a bundle is reviewed,</p> <p>6 you would look at the DHU report?</p> <p>7 A. We would look in a system called Leadtec.</p> <p>8 Q. Can you spell that?</p> <p>9 A. L-e-a-d-t-e-c.</p> <p>10 Q. What does that system do?</p> <p>11 A. This is a tracking system that records</p> <p>12 the progress of the bundles through the factory. It</p> <p>13 also tracks the amount of time each bundle remained</p> <p>14 at any given operation.</p> <p>15 Q. Aside from the DHU reports and the</p> <p>16 Leadtec tracking system, is there any other source</p> <p>17 of information that records the quality review as</p> <p>18 it's going through the manufacturing floor?</p> <p>19 A. Not as a report as such.</p> <p>20 Q. Can you describe the other way in which</p> <p>21 that could be recorded?</p> <p>22 A. When a garment is being sent back for</p> <p>23 repair, they generally get a tag attached to them</p> <p>24 with the location of the defect.</p> <p>25 Q. Were you done with the answer?</p>	<p style="text-align: right;">Page 52</p> <p>1 DIDUCH</p> <p>2 checks that are done for quality while you've been</p> <p>3 at Hickey Freeman?</p> <p>4 A. Yes.</p> <p>5 Q. What have you changed, if at all?</p> <p>6 A. I added the final inspector who looks at</p> <p>7 the made-to-measures only. I give guidance on the</p> <p>8 sort of things that we need to focus on every week</p> <p>9 because it's constantly changing. So in that</p> <p>10 respect, I might say we have a certain kind of</p> <p>11 fabric that's problematic, we need to look at these</p> <p>12 points more specifically, and that's how we give</p> <p>13 guidance or changes to our protocols.</p> <p>14 Q. How do you give that guidance? Do you</p> <p>15 have meetings with your employees?</p> <p>16 A. It depends on what it is. I either do it</p> <p>17 directly on the production floor with the people</p> <p>18 there or I might call a meeting in my office or in</p> <p>19 the conference room to talk about these things with</p> <p>20 them.</p> <p>21 Q. While at Hickey Freeman, have you ever</p> <p>22 wanted to hire any other employee with regards to</p> <p>23 quality?</p> <p>24 A. Yes.</p> <p>25 Q. And what job did you want that person to</p>

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1 DIDUCH
2 perform?
3 **A. The person looking at the**
4 **made-to-measure. That final inspector that I was**
5 **describing.**
6 Q. Other than the final inspector, anybody
7 else?
8 **A. I wanted to hire somebody to look at**
9 **markers.**
10 Q. Are you done with your answer?
11 **A. Yes.**
12 Q. And what is -- what are markers?
13 **A. Markers are the layout of the pattern**
14 **pieces within a space which represents the size of**
15 **the cloth that we're going to cut.**
16 Q. While at Hickey Freeman, was there ever
17 any lack of an employee in the shipping department?
18 **MR. D'ANGELO:** Objection.
19 **THE WITNESS:** How would you constitute a lack
20 of an employee?
21 **BY MS. MORGAN:**
22 Q. I'll rephrase that question.
23 Does Hickey Freeman have a shipping
24 department?
25 **A. Yes, we do.**

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1 **DIDUCH**
2 Q. Has the shipping department ever not had
3 enough employees in your opinion?
4 **A. I'm not qualified to make that judgment.**
5 Q. What do you think -- what qualifications
6 do you think somebody would need to answer that?
7 **A. They would need to be the shipping room**
8 **manager.**
9 Q. As quality -- as a top quality
10 professional at Hickey Freeman, are you involved
11 with the shipping department at all?
12 **A. Only to the extent that I wanted somebody**
13 **to look at garments hanging in the shipping.**
14 Q. And by saying you wanted somebody to look
15 at them, do you mean that there wasn't somebody that
16 would be looking at the garments, but you wanted
17 somebody to?
18 **A. Yes.**
19 Q. Did you express your desire to anybody?
20 **A. Yes.**
21 Q. And who did you express that to?
22 **A. Alan Abramowicz, Roy Nicholls.**
23 Q. And what was the response, if any?
24 **A. We put people.**
25 Q. You put people in shipping?

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1 DIDUCH
2 **A. Yes.**
3 Q. How many?
4 **A. I couldn't say with precision.**
5 Q. Do you know approximately?
6 **A. Two or three.**
7 Q. Are they still there today?
8 **A. Yes.**
9 Q. With the fusing machines on -- strike that.
10 Are there fusing machines on the floor at
11 the Rochester plant?
12 **A. Yes.**
13 Q. And when I say Rochester plant, do you
14 understand I'm saying -- I'm discussing Hickey
15 Freeman plant in Rochester, New York?
16 **A. Yes.**
17 Q. How many fusing machines are at the plant?
18 **A. Three.**
19 Q. Is -- are there quality control checks at
20 the three fusing machines?
21 **A. Yes.**
22 Q. And what are they?
23 **A. There are checks of the machines -- the**
24 **functioning of the machines themselves, and there**
25 **are checks of the pieces as they come out of the**

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1 **DIDUCH**
2 **fusing machines.**
3 Q. Anything else?
4 **A. We perform a check of fusible interlining**
5 **at that machine, whether they be considered part of**
6 **that.**
7 Q. And when you say "we", who do you mean?
8 **A. We as the company.**
9 Q. Any other quality control checks at the
10 fusing machines?
11 **A. No.**
12 Q. And are all those checks done at each of
13 the three machines?
14 **A. Yes.**
15 Q. What are the three machines on the floor?
16 **A. Could you restate.**
17 Q. What are the three machines on the floor?
18 **A. There are two Kannegiesser machines and a**
19 **Reliant.**
20 Q. Can you spell Reliant, please.
21 **A. R-e-l-i-a-n-t or -e-n-t, I'm not sure.**
22 Q. And do you know the make and model?
23 **A. Not all three of them.**
24 Q. Can you tell me the ones you know?
25 **A. I know CX1400.**

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1 **DIDUCH**
2 Q. And which one is that for?
3 **A. That's our blue machine that we use for**
4 **doing skin fusing.**
5 Q. Is that a Kannegiesser or a Reliant?
6 **A. It's a Kannegiesser.**
7 Q. The checks of the -- the checks that you
8 described to determine if the machines are
9 functioning, can you describe that process for me?
10 **A. Twice a day we have a piece of fabric**
11 **that's placed in the machines with a piece of**
12 **fusible interlining on top of it. We insert a paper**
13 **strip that has temperature sensitive rectangles on**
14 **it that allows us to measure the temperature on the**
15 **inside of the layers of fabric. We do a test by**
16 **pulling the pieces apart to make sure that there's**
17 **an adequate dot transfer. Periodically we will**
18 **check the whole width of the machine to see**
19 **variations in the roller pressure.**
20 Q. Anything else?
21 **A. On the machines themselves? While the**
22 **bond test piece of fabric is being put through the**
23 **machine, we use a stopwatch to make sure that the**
24 **speed is running correctly. We look at general**
25 **maintenance, accumulation of debris twice a day,**

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1 **DIDUCH**
2 **cleanliness of the rollers. That's all I can think**
3 **of.**
4 Q. Okay. The tests that you stated involved
5 the fabric with the interlining with the paper strip
6 and the pull test, are those -- are there any
7 records of those tests?
8 **A. There are now.**
9 Q. When did that start to be recorded?
10 **A. About the time we had this problem with**
11 **the interlining.**
12 Q. And what time was that?
13 **A. February of 2017.**
14 Q. And on the checking of the width of the
15 roller, is that recorded?
16 **A. No.**
17 Q. And what about the stopwatch test?
18 **A. That's also recorded now.**
19 Q. And prior to February 2017?
20 **A. It was not.**
21 Q. And checking the debris twice a day, is
22 that recorded?
23 **A. No.**
24 Q. The performance check of the interlining
25 that you described, can you -- is that any -- in any

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1 **DIDUCH**
2 greater detail than what you've already described?
3 **MR. D'ANGELO:** Objection.
4 **THE WITNESS:** The tests that we performed to
5 test the machines is very similar to the tests that
6 we use to test the performance of the interlining.
7 When we test the interlining itself, we also do --
8 when we're doing the pull test, we will measure the
9 bond strength when we're pulling it.
10 **BY MS. MORGAN:**
11 Q. How do you measure the bond strength?
12 **A. There's a device that looks like a fish**
13 **scale. It's attached to the cloth. We pull the**
14 **fusing away from the cloth and we measure the amount**
15 **of resistance.**
16 Q. Do you know what that device is that
17 looks like a fish scale?
18 **A. It probably is a fish scale.**
19 Q. Is that test -- are the results of that
20 recorded?
21 **A. I believe they are now.**
22 Q. And prior to February 2017?
23 **A. I can't state with certainty.**
24 Q. If they were recorded prior to February
25 2017, where do you think those records may be?

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1 **DIDUCH**
2 **A. In the lab.**
3 Q. Where in the lab?
4 **A. Presumably in a filing cabinet.**
5 Q. And in the lab, you mean a lab in the
6 plant?
7 **A. That's correct.**
8 Q. And is there any special name for that
9 test where you use the fish scale?
10 **A. Not an industry accepted norm that**
11 **everybody calls it. We might call it a pull test or**
12 **a bond strength test.**
13 Q. And you stated that now that is recorded
14 as of February 2017?
15 **A. I believe it is.**
16 Q. And how do you check the pieces as they
17 come out of the fusing machines?
18 **A. The pieces are inspected to make sure**
19 **that the fusible has not lapped over an edge, to**
20 **make sure there's no folds or pleats, to generally**
21 **assess whether it looks like it's adhered correctly**
22 **in the proper position.**
23 Q. And that's a visual test?
24 **A. Yes.**
25 Q. And is that recorded -- the results of

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1 DIDUCH
2 that recorded?
3 **A. No.**
4 Q. If there's a -- if the test comes back
5 with an unsatisfactory result, are those recorded?
6 **A. No.**
7 Q. What happens?
8 **MR. D'ANGELO:** You're asking about
9 specifically the pieces on the machine test?
10 **BY MS. MORGAN:**
11 Q. Any of the checks that are performed at
12 the fusing machines.
13 **A. We record now the results of strikeback**
14 **tests.**
15 Q. What do you -- what is the strikeback
16 test? What does that entail?
17 **A. We run a piece of fabric infusible**
18 **through the fusing machine. We then take it and a**
19 **piece of pocketing and run it through two or three**
20 **of the underpressing -- front -- first underpressing**
21 **operations and then determine if the pocketing has**
22 **adhered at all to the fusible.**
23 Q. And was -- did that start when?
24 **A. In February 2017.**
25 Q. Before February 2017, if there was a

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1 DIDUCH
2 negative or unsatisfactory result from the testing
3 that was done at the fusing machine, you testified
4 that that wouldn't be recorded, but what would
5 happen at that point?
6 **A. It would depend what the problem is.**
7 Q. Can you give me an example of what would
8 happen if the pull test would not be -- would have
9 an unsatisfactory result?
10 **A. We would --**
11 **MR. D'ANGELO:** Objection.
12 **THE WITNESS:** We would examine the parameters
13 of the fusing. If the machine were running
14 correctly and the internal temperature was correct,
15 we would then take that role of fusible out of
16 circulation and try to assess further whether it
17 was, in fact, defective interlining or if any of the
18 parameters of the machine might need adjusting.
19 **BY MS. MORGAN:**
20 Q. If there's a problem at the fusing
21 machine with regards to one of the results of these
22 checks, who is the person that would, if anybody,
23 would then assist in resolving the issue?
24 **A. If it's relatively minor, Sal Miceli and**
25 **Eva Cossio. If it's somewhat more major, then I**

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1 **DIDUCH**
2 **will get involved usually with our mechanics.**
3 Q. How many mechanics does Hickey Freeman
4 currently have?
5 **A. I think we're down to three.**
6 Q. Since you started at Hickey Freeman, were
7 there more than three?
8 **A. Yes.**
9 Q. How many?
10 **A. I don't recall exactly.**
11 Q. Do you remember if it was more than five?
12 **A. It may have been six or seven. I don't**
13 **think there were that many.**
14 Q. Do you know what happened to the other
15 mechanics?
16 **A. We laid one of them off and one of them's**
17 **been having health problems. We may have laid**
18 **another off. I don't recall.**
19 Q. Is Hickey Freeman currently recruiting
20 for any other mechanic?
21 **A. I'm not aware of that.**
22 Q. Would you be aware of that generally as
23 VP of quality?
24 **A. No, not for mechanics.**
25 Q. Do you know how many machines are on the

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1 DIDUCH
2 floor at the plant?
3 **A. No.**
4 Q. With the fusing machines, are they --
5 **MR. D'ANGELO:** That was a question regarding
6 any and all machines in total? I assume you
7 answered.
8 **MS. MORGAN:** How many machines were on the
9 floor?
10 **MR. D'ANGELO:** Yeah. Yeah.
11 **BY MS. MORGAN:**
12 Q. Yes, that was for, in general, all
13 machines, and do you know the answer to that?
14 **A. No.**
15 Q. For the fusing machines, do they have
16 certain parameters that they operate under?
17 **A. Yes.**
18 Q. What are those?
19 **A. They have temperature, pressure, and speed.**
20 Q. In other?
21 **A. No.**
22 Q. And is the -- does Hickey Freeman
23 regulate the temperature?
24 **A. Yes.**
25 Q. How does it do so?

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1 DIDUCH
2 **A. There are regulating devices on the**
3 **machines.**
4 Q. Can you describe those devices?
5 **A. They're buttons.**
6 Q. And how were they used with regards to
7 regulating the temperature?
8 **A. They're pushed to either raise or lower**
9 **the temperature.**
10 Q. Does an operator of that fusing machine
11 have discretion to change the temperature?
12 **A. No.**
13 **MR. D'ANGELO:** Objection.
14 **BY MS. MORGAN:**
15 Q. Does Hickey Freeman -- does Hickey
16 Freeman use the same temperature range during the
17 manufacturing process?
18 **A. Most of the time.**
19 Q. And what is that range?
20 **A. 90 percent of the time; 95 percent of the**
21 **time.**
22 Q. What is the temperature range?
23 **A. The machines are set to roughly 135 on**
24 **the top and 145 on the bottom.**
25 Q. And the 10 percent where they go outside

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1 DIDUCH
2 of that range, is that what you're saying?
3 **A. What's the question?**
4 Q. Is it correct that 10 percent -- roughly
5 10 percent of the time the fusing machines are
6 outside of that range?
7 **A. They are set to something outside of that**
8 **range.**
9 Q. And when would that occur?
10 **A. It's a fabric, it's very, very heavy, or**
11 **for some reason we're not able to achieve a correct**
12 **internal temperature.**
13 Q. Are the machines set at 135 to 145, and
14 by that I mean is it impossible to change the
15 temperature --
16 **MR. D'ANGELO:** Objection.
17 **BY MS. MORGAN:**
18 Q. -- with the buttons? Are they locked?
19 Is that temperature set locked in?
20 **A. No.**
21 Q. If they went outside of -- if the fusing
22 press machines went outside of the 135 to
23 145 degrees and that's Celsius?
24 **A. Yes.**
25 Q. Is there somebody that needs to approve

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1 DIDUCH
2 the fusing machines coming out of that temperature
3 range?
4 **MR. D'ANGELO:** Objection.
5 **THE WITNESS:** Typically the supervisor of that
6 section and Sal will know about it.
7 **BY MS. MORGAN:**
8 Q. Do you believe that interlining requires
9 a certain temperature range to use it?
10 **A. Yes.**
11 **MR. D'ANGELO:** Objection.
12 **BY MS. MORGAN:**
13 Q. And is -- how many -- how many different
14 types of interlining does Hickey Freeman currently
15 use?
16 **A. I would guess at around ten.**
17 Q. Is that an approximation or a complete
18 guess?
19 **A. That's an approximation.**
20 Q. Okay. And so would it be fair to say
21 that those ten different articles of interlining
22 would generally operate under the 135 to 145 degrees
23 Celsius temperature range?
24 **A. The 135 to 145 aren't the important**
25 **temperature ranges.**

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1 **DIDUCH**
2 Q. What is the important temperature range?
3 **A. The internal glue line temperature.**
4 Q. And is there -- the ten articles of
5 interlining that Hickey Freeman generally uses now,
6 do they have a similar range with internal glue line
7 temperature?
8 **A. Yes.**
9 Q. And what is that?
10 **A. Around 121 to 127.**
11 Q. And that's Celsius?
12 **A. Correct.**
13 **MR. NIEDERER:** Can you just read back the
14 question. I don't need the response, just the
15 question.
16 (Whereupon, the record was read
17 as requested.)
18 **MR. NIEDERER:** Thank you, I just needed the
19 word "now".
20 **BY MS. MORGAN:**
21 Q. For the -- you know, we were discussing
22 the other parameters with the fusing machine, and
23 you said the pressure. Is that regulated at all at
24 the plant?
25 **A. It's regulated on two of the machines.**

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1 **DIDUCH**
2 Q. On the Kannegiessers?
3 **A. On the Kannegiesser and the Reliant.**
4 Q. So there's one Kannegiesser machine where
5 the pressure is not regulated?
6 **A. The pressure is regulated in the sense**
7 **that we bypass the regulator so it cannot be**
8 **adjusted or fluctuate.**
9 Q. Okay. And how is the pressure regulated
10 on the other two machines?
11 **A. There's a knob.**
12 Q. And can you describe how the knob
13 interacts with the machine?
14 **A. No.**
15 Q. How does the knob relate to the amount of
16 pressure?
17 **A. You raise and lower the pressure by**
18 **turning the knob.**
19 Q. And is the knob set at a specific quantity?
20 **A. Three bars.**
21 Q. And is that -- like the temperature
22 range, it's set at three bars during the production?
23 **A. Yes.**
24 Q. And is there a --
25 **MR. D'ANGELO:** Let her ask the question first.

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1 **DIDUCH**
2 **BY MS. MORGAN:**
3 Q. No, that was actually -- that was
4 actually done.
5 Is there a percentage -- like before you
6 gave 90 percent of the time the machines stay in
7 that temperature range. Is there a percentage where
8 it typically stays at three bars?
9 **A. I can't think of a percentage, but very,**
10 **very rarely it might change.**
11 Q. And when the suits are being produced, is
12 the temperature and the pressure recorded anywhere?
13 **A. Inasmuch as we record the temperature**
14 **twice a day when we do the tests.**
15 Q. What about the pressure?
16 **A. I don't think so.**
17 Q. If a piece of garment went through the
18 fusing machine and you wanted to determine if the
19 pressure was correctly applied or not, could you be
20 able to do that?
21 **A. It might be difficult to determine it**
22 **based on the piece.**
23 Q. Is there another way you could do that?
24 **A. There is a test to test the pressure of**
25 **the machine that's not quantifiable. It's rather**

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1 **DIDUCH**
2 **subjective.**
3 Q. Can you describe that?
4 **A. You can run the length of ribbon through**
5 **the machine, and when the ribbon comes out the other**
6 **end, you pull it and you get a sense of what the**
7 **pressure is.**
8 Q. Is there any other type of tests that
9 could be performed or a way to determine the way
10 that whether the pressure is accurate or not?
11 **A. It can't be measured. It cannot be**
12 **measured.**
13 Q. Well, you just explained you can run a
14 piece of ribbon to determine if the pressure is
15 adequate; is that fair to say?
16 **MR. D'ANGELO:** Objection.
17 **THE WITNESS:** It's a subjective evaluation.
18 It's not a measurement.
19 **BY MS. MORGAN:**
20 Q. Is there any other type of evaluation?
21 **A. Not to measure the pressure.**
22 Q. Is there any other type of evaluation to
23 determine if the pressure was adequate when a
24 garment was being used in a fusing press?
25 **MR. D'ANGELO:** Objection.

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1 **DIDUCH**
2 **THE WITNESS:** Not pressure alone.
3 **BY MS. MORGAN:**
4 Q. Can you explain it a little bit more?
5 **A. We determine whether the combination of**
6 **pressure, dwell time, and temperature were adequate.**
7 Q. How?
8 **A. By checking the bond strength.**
9 Q. How do you do that?
10 **A. With the pull test that I described**
11 **earlier.**
12 Q. And that was in place prior to
13 February 2017?
14 **A. Yes.**
15 Q. So going from the fusing machines to the
16 pressing machines, how many pressing machines are on
17 the factory floor?
18 **A. I couldn't say with certainty.**
19 Q. Can you give an approximation?
20 **A. 40 or 50 maybe.**
21 Q. And is quality -- is the quality of --
22 excuse me, strike that.
23 Is quality controlled at the pressing
24 machines?
25 **MR. D'ANGELO:** Objection.

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1 DIDUCH
2 **THE WITNESS:** The garments are checked.
3 **BY MS. MORGAN:**
4 Q. How are they checked?
5 **A. Visually.**
6 Q. Is temperature regulated at the pressing
7 machine?
8 **A. No.**
9 Q. What about pressure?
10 **A. Yes.**
11 Q. And how are they -- how is the pressure
12 regulated?
13 **A. There are typically control boxes on the**
14 **machines.**
15 Q. Do some of the pressing machines not have
16 control boxes?
17 **A. Yes.**
18 Q. And can you describe how the control
19 boxes help to regulate the pressure?
20 **A. The control boxes are programmable**
21 **devices that would regulate pressure, the dwell**
22 **time, the vacuum, and any other programmable**
23 **parameter.**
24 Q. And are those parameters set much like
25 the temperature that we described earlier?

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1 DIDUCH
2 **MR. D'ANGELO:** Objection.
3 **THE WITNESS:** Yes.
4 **BY MS. MORGAN:**
5 Q. And do you know the program -- the set
6 parameters for those programmable features?
7 **MR. D'ANGELO:** Objection.
8 **THE WITNESS:** No.
9 **BY MS. MORGAN:**
10 Q. Do you know who would know that?
11 **A. Mark Corbett.**
12 Q. Corbett?
13 **A. Corbett, C-o-r-b-e-t-t.**
14 Q. What does he do?
15 **A. He's the director of maintenance.**
16 Q. Do they ever need to be changed or
17 altered, the programmable parameters?
18 **A. If we were to determine that there was an**
19 **issue with the quality of the pressing, then we**
20 **would determine a different program.**
21 Q. And who would make that determination?
22 **A. Me, Sal, and the mechanics.**
23 Q. Have you ever done that while you were at
24 Hickey Freeman?
25 **A. Not the programs.**

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1 **DIDUCH**
2 Q. Have you changed any of the parameters
3 with regards to pressure, maybe not in the programs,
4 with the pressing machines?
5 **A. No.**
6 Q. Is the duration that a garment is
7 utilized in the pressing machine a regulated factor
8 on the floor?
9 **A. Yes.**
10 Q. And how is that regulated?
11 **A. The control box.**
12 Q. Can you describe that?
13 **A. What are you asking me to describe?**
14 Q. How a control box regulates the duration.
15 **A. It's a computerized control box that the**
16 **mechanics program for the length of time for each**
17 **stage of pressing.**
18 Q. Do you know how long the stages are?
19 **A. Not all of them.**
20 Q. Can you tell me the ones you know?
21 **MR. D'ANGELO:** You're asking him all 40 to 50
22 pressing machines?
23 **BY MS. MORGAN:**
24 Q. Just approximately.
25 **A. The first underpressing operations are**

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1 **DIDUCH**
2 **about 20 seconds in total. Of those 20 seconds,**
3 **7 seconds are dwell time pressure. The rest are a**
4 **vacuum.**
5 Q. And do you have any other approximations?
6 Maybe after the first press, you know, the second or
7 third?
8 **A. The second or third are also within that**
9 **range, some are 16 seconds total time. Typically**
10 **they're under 10 seconds of pressure.**
11 Q. And the vacuum aspect, is that also
12 controlled through the control box?
13 **A. Yes.**
14 Q. Are the parameters that are set with the
15 control box, are those recorded anywhere?
16 **A. They would have to be, yes.**
17 Q. If you wanted to look those up, could you
18 do that?
19 **A. I would have to get maintenance to show**
20 **that to me.**
21 Q. You testified that they would have to be,
22 but do you, in fact, know if -- have you ever looked
23 at them with maintenance?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** Not the records.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Have you looked at them with maintenance
4 in some other way?
5 **A. No. I've looked at the machines.**
6 Q. Can you tell what the programmable
7 parameters are by looking at the machine?
8 **A. Sometimes.**
9 Q. Do you know which ones you can tell by
10 the face of the machine?
11 **A. Not all of them, no.**
12 Q. Can you tell me the ones you know?
13 **A. I couldn't tell you the name of which**
14 **machines.**
15 Q. My question is the programmable
16 parameters that you can tell by looking at the
17 machine, are they displayed on the face of it?
18 **A. Some of the parameters are displayed,**
19 **some of them have a pressure gauge on the front of**
20 **machine so that when the pressure is engaged, you**
21 **can see and you can see when it drops. Some of them**
22 **have boxes on the side that have lights that**
23 **visually represent the time of each cycle of**
24 **pressing, and while it's not explicitly stated on**
25 **the box, you could usually figure out by watching**

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1 **DIDUCH**
2 **the press cycle what's going on and then determining**
3 **the amount of time each cycle is happening.**
4 Q. Do the operators get any training on the
5 machines?
6 **A. They get training on how to position the**
7 **garment, they get training in the general**
8 **requirements of the appearance of the garment, and**
9 **when necessary they get training on which programs**
10 **to use.**
11 Q. But do the operators -- for example, you
12 referenced the lights can show the duration and the
13 gauge can display other features. Do they get any
14 training on those physical components?
15 **A. Not specifically.**
16 **MR. D'ANGELO:** Objection.
17 **BY MS. MORGAN:**
18 Q. And when you mentioned they get training
19 on what program to use, is that right, you said?
20 **A. Yes.**
21 Q. Can you describe what you mean by that?
22 **A. Certain operations may require different**
23 **programs to be used depending on the type of cloth**
24 **that's being pressed.**
25 Q. And by program, you mean the parameters

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1 DIDUCH
2 that would be applied to the pressing machines; is
3 that right?
4 **A. I'm not sure I understand the question.**
5 Q. What do you mean by program?
6 **A. It's a number that they're told for --**
7 **for example, if it's a tuxedo, use program number**
8 **one.**
9 Q. And how's that communicated to them?
10 **A. It's written on the machine.**
11 Q. As the designer of the suit, do you come
12 up with the program?
13 **A. They haven't been changed in 20 years or**
14 **more.**
15 Q. So is that a no?
16 **A. No. If I had to -- if we had to come up**
17 **with a new program, I would be involved in the**
18 **determining of the program.**
19 Q. Is steam used in the manufacturing
20 process at Hickey Freeman?
21 **A. Yes.**
22 Q. How is steam used?
23 **A. Steam is used in conjunction with hand**
24 **irons and the presses.**
25 Q. Where if -- where does the source of the

Page 80

1 DIDUCH
2 steam come from?
3 **A. We have a boiler.**
4 Q. Where is the boiler located?
5 **A. In an outbuilding.**
6 Q. Does Hickey Freeman own the boiler?
7 **A. I don't know if it's owned or leased.**
8 Q. Is the steam that's used in the
9 manufacturing process regulated?
10 **A. Yes.**
11 Q. How is it regulated?
12 **A. I don't know.**
13 Q. Who would know that?
14 **A. Mark Corbett.**
15 Q. Because he's the mechanic?
16 **A. He's the head of maintenance and**
17 **mechanics.**
18 Q. Is the regulation of steam an aspect of
19 the quality control that you oversee?
20 **A. I'm not sure how to answer that.**
21 Q. Do you understand my question?
22 **A. Maybe not.**
23 Q. Okay. I'll rephrase it.
24 In your job, you are responsible for
25 quality on the floor, correct?

<p style="text-align: right;">Page 81</p> <p>1 DIDUCH</p> <p>2 A. That's correct.</p> <p>3 Q. And as part of that, do you -- are you</p> <p>4 responsible for making sure that steam is regulated</p> <p>5 in the manufacturing process?</p> <p>6 A. No.</p> <p>7 Q. Is that exclusively the mechanic's</p> <p>8 responsibility?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know if the mechanic checks the</p> <p>11 boiler and the -- let's start with that. Do you</p> <p>12 know if he does that?</p> <p>13 A. Yes.</p> <p>14 Q. And how often does the mechanic do that,</p> <p>15 if you know?</p> <p>16 A. I don't know.</p> <p>17 Q. Is it one mechanic that regulates the</p> <p>18 steam or is it several mechanics?</p> <p>19 A. I don't know the answer to that.</p> <p>20 Q. Do you know if the mechanic records the</p> <p>21 steam temperature on a regular basis at any point?</p> <p>22 A. I don't know.</p> <p>23 Q. You said the steam is -- comes from a</p> <p>24 boiler that's outside of the plant; is that what you</p> <p>25 said?</p>	<p style="text-align: right;">Page 83</p> <p>1 DIDUCH</p> <p>2 Q. Who's responsible for that?</p> <p>3 A. Sal and myself.</p> <p>4 Q. And if you -- and these are visual</p> <p>5 inspections you're saying that you and Sal do?</p> <p>6 A. Yes.</p> <p>7 Q. And if you determine that a suit is</p> <p>8 unacceptable for some reason, what happens to that</p> <p>9 suit?</p> <p>10 A. It would depend on the reason it was</p> <p>11 unacceptable.</p> <p>12 Q. Can you give me an example of when you've</p> <p>13 visually inspected a suit at the shipping section</p> <p>14 and pulled it from being shipped?</p> <p>15 A. An example would be if it was incorrectly</p> <p>16 bagged and a front was folded back on itself</p> <p>17 creating pleats in the garment, we would bring it</p> <p>18 back and re-press it.</p> <p>19 Q. And do you and Sal inspect every suit in</p> <p>20 shipping?</p> <p>21 A. No.</p> <p>22 Q. It's a general overview --</p> <p>23 A. Random sampling.</p> <p>24 Q. Random sampling.</p> <p>25 A. Sorry, I cut you off.</p>
<p style="text-align: right;">Page 82</p> <p>1 DIDUCH</p> <p>2 A. It's a small outbuilding.</p> <p>3 Q. Near the plant?</p> <p>4 A. Yes.</p> <p>5 Q. And do you know if it's checked before</p> <p>6 it's -- if there's any kind of inspection or check</p> <p>7 before the steam enters the plant?</p> <p>8 A. I don't know.</p> <p>9 Q. Are there any other quality control</p> <p>10 procedures that we haven't discussed so far today?</p> <p>11 MR. D'ANGELO: Objection.</p> <p>12 THE WITNESS: I'm trying to think if there's</p> <p>13 anything. I'm trying to go over what we discussed</p> <p>14 and thinking if there's anything we haven't</p> <p>15 discussed. I think we've covered everything.</p> <p>16 BY MS. MORGAN:</p> <p>17 Q. What about when a garment is finished</p> <p>18 with the manufacturing process, what happens after</p> <p>19 that point? Does it go to shipping?</p> <p>20 A. Yes.</p> <p>21 Q. And is there any interaction with quality</p> <p>22 and shipping?</p> <p>23 A. We will periodically go through the</p> <p>24 shipping department and just see how things are</p> <p>25 being stored and look at the state of the garments.</p>	<p style="text-align: right;">Page 84</p> <p>1 DIDUCH</p> <p>2 Q. No, it's okay.</p> <p>3 Aside from the changes in February of</p> <p>4 2017 that you already testified to, are you aware of</p> <p>5 any other changes to the quality control procedures</p> <p>6 from January 1, 2013, let's say, until February of</p> <p>7 2017?</p> <p>8 MR. D'ANGELO: January 2013?</p> <p>9 BY MS. MORGAN:</p> <p>10 Q. Yes.</p> <p>11 A. I'm not sure that I would be aware of</p> <p>12 things that were done prior to me joining the</p> <p>13 company.</p> <p>14 Q. Let's start then with once you joined in</p> <p>15 2015.</p> <p>16 A. I joined in 2016.</p> <p>17 Q. Okay. So when you joined in 2016.</p> <p>18 A. Then what's the question?</p> <p>19 Q. The question is are you aware of any</p> <p>20 other change to the quality control procedures from</p> <p>21 the first day of starting at Hickey Freeman until</p> <p>22 February 2017?</p> <p>23 MR. D'ANGELO: Objection.</p> <p>24 THE WITNESS: We are constantly modifying and</p> <p>25 adjusting depending on what's going through the shop.</p>

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. When you say "depending on what's going
4 through the shop," do you mean depending on the type
5 of suit?
6 **A. And the type of fabric.**
7 Q. How were those modifications communicated
8 to the staff, if at all?
9 **A. Orally.**
10 Q. And do you come up with the modifications?
11 **A. Some.**
12 Q. Who else does?
13 **A. Sal.**
14 Q. Can you give me an example of how a
15 quality control was modified based on the fabric of
16 a suit?
17 **A. If a particular fabric is more reactive**
18 **to humidity, we might measure it more frequently or**
19 **we might let it rest for longer between operations.**
20 **MS. MORGAN:** Can you read that back, please.
21 (Whereupon, the record was read
22 as requested.)
23 **BY MS. MORGAN:**
24 Q. Now, are the modifications to the quality
25 control determined at the design stage?

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1 DIDUCH
2 **A. Inasmuch as prototyping is part of the**
3 **design stage or they're done when we're in**
4 **production.**
5 **MR. D'ANGELO:** We've been going about an hour
6 and 45 minutes. Can we take a break soon?
7 **MS. MORGAN:** Up to your discretion.
8 **THE WITNESS:** I prefer a break.
9 (Whereupon, a short break was
10 taken.)
11 **BY MS. MORGAN:**
12 Q. Mr. Diduch, do you understand that you're
13 still under oath?
14 **A. Yes.**
15 Q. The lawsuit that your company has brought
16 against my client, that involves a certain alleged
17 damage to suits, correct?
18 **A. Yes.**
19 Q. Did you design those suits?
20 **A. Some of them.**
21 Q. The ones that you designed, can you tell
22 me about those in terms of maybe there's a -- the
23 style model or a way to differentiate the ones that
24 you designed yourself?
25 **A. There might be certain models within that**

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1 **DIDUCH**
2 **bunch of them that I had introduced new within some**
3 **of the families of models that we produced. Most of**
4 **them, if anything, they were just modifications of**
5 **existing styles, yeah.**
6 Q. And so is it fair to say that you didn't
7 create a new model?
8 **A. I created new models within a family**
9 **of -- I'm trying to think of how to describe it so**
10 **it's clear to you. We have groups of silhouettes**
11 **and there could be 30 or 40 or 50 models within that**
12 **group, and maybe within that group, I created one or**
13 **two new models within that silhouette, but most of**
14 **the features remain the same.**
15 Q. And one -- those one or two models that
16 you modified, did they then get a different
17 identification number?
18 **A. Yes.**
19 Q. And what were the two models that you
20 designed or modified?
21 **A. I couldn't recall.**
22 Q. You don't recall.
23 And the modifications that you made, do
24 you recall what those were?
25 **A. Not at this point.**

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1 **DIDUCH**
2 Q. Do you recall if it related to the type
3 of interlining article?
4 **A. No.**
5 Q. All the suits that are the subject of
6 this lawsuit, is it correct that the interlining had
7 been selected prior -- selected by someone other
8 than you?
9 **MR. D'ANGELO:** Objection.
10 **THE WITNESS:** Could you restate that.
11 **BY MS. MORGAN:**
12 Q. Sure. Earlier you testified that each
13 suit has a certain sheet with it that discusses
14 certain components. Do you recall that testimony?
15 **A. Yes.**
16 Q. And one of those components is a type of
17 interlining to use, correct?
18 **A. Yes.**
19 Q. Were you involved in the selection of the
20 type of interlining to use in any of the suits that
21 are the subject of this complaint?
22 **A. No.**
23 Q. Do you know who was?
24 **A. Not with certainty.**
25 Q. Do you have an approximation of who it was?

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1 DIDUCH
2 **A. I think it was Ralph van Overdyke.**
3 Q. Is he still with Hickey Freeman?
4 **A. No.**
5 Q. Were you involved in the fabric selection
6 of any of the suits that are the subject of this
7 complaint?
8 **A. No.**
9 Q. Do you know who was?
10 **A. I assume it was Aliya Morehead and**
11 **Arnold Silverstone.**
12 Q. Since you joined Hickey Freeman, have you
13 created a suit where you have the responsibility of
14 selecting the interlining?
15 **MR. D'ANGELO:** You mean selecting the
16 interlining for that suit or just in general?
17 **BY MS. MORGAN:**
18 Q. For that suit.
19 **A. I'd like to perhaps make a distinction**
20 **between an interlining which is selected because of**
21 **the style of it or an interlining which is selected**
22 **because of the type of fabric. Where the**
23 **interlining is style related, I make that selection.**
24 **Where the interlining is fabric related**
25 **specifically, then Donny Wray is responsible for**

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1 **DIDUCH**
2 **making that call.**
3 Q. Are you familiar with an article called
4 the 3069 -- an article of interlining called the
5 3069?
6 **A. No.**
7 Q. Are you familiar with an article of
8 interlining numbered 630?
9 **A. Yes.**
10 Q. At any point in time while you've been
11 with Hickey Freeman, have they used the 630?
12 **A. Yes.**
13 Q. Do you know when Hickey Freeman started
14 using the 630?
15 **A. No.**
16 Q. Do you know what type of interlining was
17 used in the suits that are the subject of this
18 complaint?
19 **A. Yes.**
20 Q. What type?
21 **A. 630.**
22 Q. Prior to the production of the suits that
23 are the subject of this complaint, had you overseen
24 the manufacturing of suits using the 630?
25 **A. Are you saying prior to my time at**

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1 **DIDUCH**
2 **Hickey Freeman or prior to this incident?**
3 Q. Prior to the production of the suits that
4 are the subject of this complaint, during your time
5 at Hickey Freeman, did you use the 630 for the
6 production of other suits?
7 **A. Yes.**
8 Q. When was the first time you used the 630
9 at Hickey Freeman? When was the first time that you
10 used the 630 --
11 **A. That I personally used?**
12 Q. That you're aware that Hickey Freeman
13 used the 630 at Hickey -- in a production run?
14 **A. I have seen a garment that was made in**
15 **2014 that had the 630 in it.**
16 **MR. NIEDERER:** Can you just read that back?
17 **MS. MORGAN:** 2014.
18 **MR. NIEDERER:** Don't read it back.
19 **BY MS. MORGAN:**
20 Q. The suits that are the subject of this
21 complaint, did you review the sheet that accompanies
22 suits with the specifications at any point in time
23 where it discusses its components and the
24 interlining?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. And can you refresh my recollection what
3 that sheet is called?
4 **A. The sheet that would mention the 630**
5 **would be the manufacturing statement.**
6 Q. Is that different than the spec sheet?
7 **A. Yes.**
8 Q. And what does the manufacturing statement
9 include?
10 **A. The manufacturing statement has other**
11 **instructions whether technical instructions about**
12 **how it's to be sewn or certain trim items which are**
13 **not specified on the specification like the 630.**
14 Q. And does the manufacturing statement
15 travel with the garment as it goes through the
16 manufacturing process?
17 **A. Yes.**
18 Q. Does the spec sheet as well?
19 **A. No.**
20 Q. Does any other document other than the
21 manufacturing statement travel with the garment as
22 it goes through the manufacturing process?
23 **A. No.**
24 Q. When a suit at Hickey Freeman is in the
25 design process, is it tested during that process?

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1 DIDUCH
2 **A. Define "tested."**
3 Q. What do you -- what do you know, if any,
4 testing that is done on suits as they're in the
5 design process?
6 **A. We will evaluate the suit for appearance**
7 **and fit and quality.**
8 Q. How do you evaluate it for quality?
9 **A. Visually.**
10 Q. Is there any testing that needs to be
11 done with the fabric and the other components of the
12 suit to ensure that they all work together --
13 **MR. D'ANGELO:** Objection.
14 **BY MS. MORGAN:**
15 Q. -- through the various parameters?
16 **A. Part of the prototyping process is to**
17 **determine whether all the elements go together**
18 **correctly and perform correctly.**
19 Q. And can you describe that part of the
20 prototype process?
21 **A. It's a visual and tactile test where we**
22 **put them together. Does it feel correct? Does it**
23 **look correct? Does it drape correctly?**
24 Q. How is an interlining model selected at
25 the prototype phase?

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1 DIDUCH
2 **A. If it's a style related interlining, then**
3 **it's evaluated on its own merits as an interlining**
4 **and then it's fused to the fabric that we intend to**
5 **use and evaluated for hand feel and bond strength.**
6 Q. And with the -- when it's fused, is that
7 result recorded?
8 **A. The result of what?**
9 Q. Of the fusing of the interlining with the
10 fabric?
11 **A. No.**
12 Q. Is any sample saved of that endeavor?
13 **MR. D'ANGELO:** Objection.
14 **THE WITNESS:** Sometimes we have the garment.
15 **BY MS. MORGAN:**
16 Q. The prototype you mean?
17 **A. Yes.**
18 Q. Do you know if Hickey Freeman has the
19 prototype of any of the suits that are the subject
20 of this complaint?
21 **A. I don't know.**
22 Q. So you mentioned that you had the visual
23 and tactile test for the fusible that relates to
24 style, correct?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. And the other type you mentioned, there's
3 style and another distinct -- fabric related
4 interlining?
5 **A. That is also evaluated.**
6 Q. And how is that evaluated?
7 **A. The same.**
8 Q. Is that a separate fuse test?
9 **A. It's the same test.**
10 Q. When the fusing is done at the prototype
11 stage, how does Hickey Freeman know, if at all, what
12 parameters to fuse under?
13 **A. If it's a new fusible, we have a data**
14 **sheet that accompanies it.**
15 Q. And who is that data sheet provided by,
16 if anybody?
17 **A. The supplier of the fusible.**
18 Q. Do you also have a data sheet from the
19 manufacturer?
20 **A. Sometimes.**
21 Q. And does Hickey Freeman essentially just
22 use the parameters that the supplier provides and
23 the data sheet?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** We determine if those parameters

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1 DIDUCH
2 are appropriate to our intended process.
3 **BY MS. MORGAN:**
4 Q. How does Hickey Freeman do that?
5 **A. We determine whether when following the**
6 **parameters we get a correct result.**
7 Q. Through the evaluations that you do with
8 the prototypes?
9 **A. And the testing, pull testing and --**
10 Q. For the suits that are the subject of
11 this complaint, do you know if the specifications
12 were changed at all from the data sheet provided by
13 the supplier?
14 **MR. D'ANGELO:** Objection.
15 **MR. NIEDERER:** Sorry, can you have that
16 question read back, please.
17 (Whereupon, the record was read
18 as requested.)
19 **MR. NIEDERER:** I'm going to object to form.
20 **THE WITNESS:** Which specifications?
21 **BY MS. MORGAN:**
22 Q. For the six -- I'm going to rephrase my
23 question.
24 For the 630 that was used in the
25 production of these allegedly defective suits, did

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1 DIDUCH
2 you receive a data sheet from the supplier of the
3 interlining?
4 **A. Yes, we received a data sheet.**
5 Q. And did that data sheet contain certain
6 information?
7 **A. Yes, it did.**
8 Q. What information did it contain?
9 **A. It had the content, it had the weight, it**
10 **had the temperature settings, it had typically a**
11 **glue line, and it'll have a dwell time and pressure.**
12 Q. During the manufacturing process of the
13 suits, were those parameters followed?
14 **A. Yes.**
15 Q. Without any alteration?
16 **A. Yes.**
17 Q. Was the testing with the prototypes done
18 for the models that were eventually produced in the
19 production run that's the subject of this complaint,
20 that occurred before you arrived at Hickey Freeman,
21 correct?
22 **MR. D'ANGELO:** Objection. Can I have the
23 question read back, please.
24 **BY MS. MORGAN:**
25 Q. I can rephrase it.

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1 DIDUCH
2 **A. Okay. Rephrase it.**
3 Q. You described how there's certain testing
4 done during the prototype phase of the design of the
5 suit, correct?
6 **A. Yes.**
7 Q. For the suits in question, was that
8 testing with the prototype done prior to your
9 arrival at Hickey Freeman?
10 **A. No.**
11 Q. Okay. Were you involved in the prototype
12 testing for the suits that are involved in this
13 lawsuit?
14 **A. Yes.**
15 Q. And did you use the parameters of -- did
16 Hickey Freeman use the parameters in the -- from the
17 data sheet from the supplier during that testing at
18 the prototype phase?
19 **A. Yes.**
20 Q. And were there any problems with those
21 parameters that you observed?
22 **A. No.**
23 Q. At that prototype evaluation stage, did
24 Hickey Freeman have any data sheet from the
25 manufacturer of the interlining?

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1 DIDUCH
2 **A. No.**
3 Q. Was that ever requested from the
4 supplier?
5 **MR. D'ANGELO:** Objection, foundation.
6 **THE WITNESS:** I don't know.
7 **BY MS. MORGAN:**
8 Q. When I'm talking about supplier, do you
9 know who that is?
10 **A. Are you referring to Chargeurs or to**
11 **Veratex?**
12 Q. That's what I'm asking you.
13 **MR. D'ANGELO:** You're asking him who the
14 supplier is?
15 **BY MS. MORGAN:**
16 Q. Do you know who the supplier of the 630
17 is to Hickey Freeman?
18 **A. We buy a Chargeurs product through Veratex.**
19 Q. So when you were using the term
20 "supplier", did you mean Chargeurs or Veratex?
21 **A. We use the term interchangeably.**
22 Q. The data sheet that you were referring
23 to, was that a Veratex data sheet or a Chargeurs
24 data sheet?
25 **A. That was a Veratex data sheet.**

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1 **DIDUCH**
2 Q. Do you recall when that data sheet was
3 provided to Hickey Freeman?
4 **A. I was provided with a data sheet in**
5 **October of 2016. Hickey Freeman already had a copy**
6 **of that data sheet from I don't know when.**
7 Q. Does Hickey Freeman keep the data sheets
8 it receives from certain suppliers or manufacturers
9 on site?
10 **A. Yes.**
11 Q. And where is that located?
12 **A. That's maintained by the trim purchaser.**
13 Q. Do you know what -- do you know what the
14 pressure was that was applied during the
15 manufacturing process of the suits that are the
16 subject of this complaint?
17 **A. Do I know because I looked at the machine**
18 **at the time or do I know because that's the**
19 **parameter?**
20 Q. Do you know in any way whatever the
21 source is from?
22 **A. Our standard was three bars.**
23 Q. Do you know if it was, in fact, three
24 bars --
25 **MR. D'ANGELO:** Objection.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. -- at the time of the manufacturing?
4 **MR. D'ANGELO:** Objection.
5 **THE WITNESS:** Not with certainty.
6 **BY MS. MORGAN:**
7 Q. Did Hickey Freeman receive any
8 recommendation from Veratex with regards to the
9 parameters on the data sheet that were different
10 than those stated on the data sheet?
11 **A. Yes.**
12 Q. And can you describe that for me, please.
13 **A. I got an e-mail from Barry Diamond that**
14 **stated that they recommend using certain parameters**
15 **which did not match those on the data sheet.**
16 Q. Do you remember when you received that
17 e-mail approximately?
18 **A. October of 2016 I think.**
19 Q. Did you say "I think"?
20 **A. I think.**
21 Q. And do you know what Hickey Freeman
22 followed in terms of the -- strike that.
23 Did Hickey Freeman accept those
24 recommendations?
25 **MR. D'ANGELO:** Objection.

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1 DIDUCH
2 **THE WITNESS:** We maintained the parameters as
3 stated on the data sheet.
4 **BY MS. MORGAN:**
5 Q. Did Hickey Freeman do anything after
6 receiving the recommendation in the October 26
7 e-mail -- 2016 e-mail from Veratex that had
8 different parameters?
9 **MR. NIEDERER:** Objection to form. Just note
10 my running objection to the use of the term
11 "recommended" or "recommendation."
12 **MR. D'ANGELO:** I'll object, too. You're
13 asking him if they did anything after that?
14 **BY MS. MORGAN:**
15 Q. With that information.
16 **A. Can I have the question again.**
17 Q. Sure. I'll rephrase it.
18 The -- after receiving that e-mail that
19 had the recommendations as you put it, did you do
20 anything with those recommendations such as further
21 testing or --
22 **A. I believe we tried them out.**
23 **MR. D'ANGELO:** Just note my objection to
24 mischaracterizing the witness's testimony.
25

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. And can you describe how you tried them
4 out?
5 **A. We would have run some fusing tests with**
6 **those different parameters.**
7 Q. Do you remember if you did?
8 **A. I'm fairly certain we did.**
9 Q. Do you remember if those fusing tests --
10 the results of those were recorded anywhere?
11 **A. No.**
12 Q. Do you remember the results of those
13 fusing tests?
14 **A. Vaguely.**
15 Q. Can you tell me what you do remember?
16 **A. That we tested it out. There wasn't**
17 **substantial difference in the performance of it, so**
18 **we stayed with the data sheet recommendations.**
19 Q. Did you ever discuss the different
20 parameters in the October 2016 e-mail with
21 Barry Diamond?
22 **MR. D'ANGELO:** You're asking about at any
23 point in time?
24 **BY MS. MORGAN:**
25 Q. Yeah, at any point in time.

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1 DIDUCH
2 **A. I don't remember.**
3 Q. Do you know what the temperature
4 parameters were that were at the time of the
5 manufacturing of the allegedly defective suits?
6 **A. I don't remember them exactly.**
7 Q. If you wanted to look them up, could you
8 do that?
9 **A. Possibly.**
10 Q. How would you do that?
11 **A. Maintenance might have a record of it.**
12 Q. Do you know if any search has been
13 conducted to determine if maintenance has those
14 records?
15 **A. I think so.**
16 Q. What is your basis of that belief?
17 **A. I think that Roy looked for it.**
18 Q. And do you know if anything resulted from
19 Roy Nicholls' search?
20 **A. I don't know.**
21 Q. And were the temperature parameters, were
22 they also sourced from the temperature parameters in
23 the Veratex data sheet?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** Probably.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Is there a way to determine if they were
4 or not?
5 **MR. D'ANGELO:** Are you asking about the glue
6 line temp or the machine temp? Because there's
7 several different ones. I just want to be sure.
8 **BY MS. MORGAN:**
9 Q. Any of the temperatures that were used in
10 the manufacturing process, were they sourced from
11 the Veratex data sheet?
12 **A. That was done before my arrival, so I**
13 **couldn't say.**
14 **MR. D'ANGELO:** Can you note my objection to
15 the prior question. Thank you.
16 **BY MS. MORGAN:**
17 Q. Is there a way to know if a garment has
18 passed through the quality inspection points on the
19 floor?
20 **A. Yes.**
21 Q. Can you tell me how those are?
22 **A. How what are?**
23 Q. How you can determine if they've
24 passed -- if a suit has passed through the quality
25 control points on the floor?

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1 DIDUCH
2 **A. A hundred percent of suits are passed**
3 **through final inspection, and if they've gone**
4 **through the DHU reports, we can find and detect**
5 **whether they've been inspected.**
6 Q. When Hickey Freeman receives interlining
7 from a supplier, is any testing conducted on that
8 interlining?
9 **A. Yes.**
10 Q. What does that entail?
11 **A. I believe I described it earlier.**
12 Q. Before I recall you describing the
13 testing that's done at the prototype phase --
14 **MR. D'ANGELO:** Objection.
15 **BY MS. MORGAN:**
16 Q. -- with interlining. Were you referring
17 to a different type of testing?
18 **A. The prototype phase is relative to the**
19 **individual fabrics. When the interlining comes in,**
20 **each roll of interlining is tested.**
21 Q. And what types of tests are conducted?
22 **A. Bond strength and now we do strikeback**
23 **testing.**
24 Q. And is that with each shipment that
25 arrives?

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1 DIDUCH
2 **A. Every single roll.**
3 Q. Are those testing results recorded?
4 **A. Yes.**
5 Q. And were they recorded prior to
6 February 2017?
7 **A. Not to my knowledge.**
8 Q. Did they start to be recorded after
9 February 2017?
10 **A. Yes.**
11 Q. For the testing that's done on the
12 interlining as Hickey Freeman receives the shipment,
13 are there testing protocols that are memorialized
14 anywhere?
15 **MR. D'ANGELO:** Sorry, I missed that question.
16 Karen, would you mind reading it back.
17 (Whereupon, the record was read
18 as requested.)
19 **THE WITNESS:** I don't know.
20 **BY MS. MORGAN:**
21 Q. And who performs that testing?
22 **A. Gloria de Leon.**
23 Q. Does Hickey Freeman ever ask a supplier
24 to test the interlining for them prior to receiving
25 the interlining? And this is during, we'll say,

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1 DIDUCH
2 your time at Hickey Freeman.
3 **A. I think it's understood that the supplier**
4 **does their testing.**
5 Q. Does Hickey Freeman receive test results
6 from suppliers of interlining?
7 **A. No.**
8 Q. What's the basis of that understanding
9 that you believe Hickey Freeman has?
10 **MR. D'ANGELO:** The basis for his understanding
11 that Hickey Freeman what?
12 **BY MS. MORGAN:**
13 Q. That the supplier tests the interlining
14 before Hickey Freeman receives it.
15 **MR. D'ANGELO:** Thank you.
16 **THE WITNESS:** It's an industry norm that their
17 product goes through a QC process.
18 **MR. NIEDERER:** Can we go off the record for a
19 second?
20 (Whereupon, a discussion was had
21 off the record.)
22 **BY MS. MORGAN:**
23 Q. When you were just discussing the
24 supplier in the context of performing certain tests
25 as per industry norm, were you referring to a

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1 DIDUCH
2 distributor of interlining or a manufacturer of
3 interlining?
4 **A. It's understood that the manufacturer of**
5 **the interlining tests the product before it leaves**
6 **their facility -- their manufacturing facility.**
7 Q. And for a distributor of the interlining,
8 is that same understanding known in the industry?
9 **MR. NIEDERER:** Objection to form.
10 **THE WITNESS:** Repeat, sorry.
11 **BY MS. MORGAN:**
12 Q. Is the supplier -- excuse me, is the
13 distributor of the interlining, does it typically
14 perform testing as well?
15 **MR. NIEDERER:** Objection.
16 **THE WITNESS:** I only currently work with one
17 distributor of interlining. The other interliners
18 we get directly from the manufacturer.
19 **BY MS. MORGAN:**
20 Q. And what's that one distributor?
21 **A. Veratex.**
22 Q. In your prior experience before
23 Hickey Freeman, did you work with any other
24 distributor other than Veratex?
25 **A. Once.**

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1 **DIDUCH**
2 Q. What distributor was that?
3 **A. B-Gaps.**
4 Q. B-Gaps?
5 **A. Yes.**
6 Q. And did B-Gaps perform testing on the
7 interlining prior to shipping it to your employer at
8 that time?
9 **A. No.**
10 Q. To your understanding, does Veratex test
11 the interlining before it provides it to
12 Hickey Freeman?
13 **MR. NIEDERER:** Objection to form.
14 **THE WITNESS:** I don't know if they do.
15 **BY MS. MORGAN:**
16 Q. Do you know if Veratex performed any
17 testing of the interlining that was ultimately used
18 in the allegedly defective suits?
19 **A. Are you asking if they tested it prior to**
20 **shipping to us?**
21 Q. Yes.
22 **A. I don't know.**
23 Q. Do you know who the manufacturer of the
24 630 is?
25 **A. Chargeurs -- some incarnation of**

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1 **DIDUCH**
2 **Chargeurs with Lainière de Picardie.**
3 Q. Do you know if Chargeurs tested the
4 interlining prior to it ultimately being received by
5 Hickey Freeman?
6 **A. I don't know.**
7 Q. Did you ever ask anybody at Veratex if
8 they had tested the interlining prior to shipping it
9 to Hickey Freeman?
10 **A. Did I ask if Veratex had tested it?**
11 Q. Yes, did you ask anybody at Veratex if
12 they tested the interlining before shipping it to
13 Hickey Freeman?
14 **MR. D'ANGELO:** You're asking him the
15 question -- if he posed that question prior to
16 shipping or if he posed the question at any time --
17 **MS. MORGAN:** At any time.
18 **MR. D'ANGELO:** -- regarding what happened
19 prior to shipping?
20 **BY MS. MORGAN:**
21 Q. At any time.
22 **A. I didn't ask Veratex if they had tested it.**
23 Q. Did you ask Veratex at any time if
24 Chargeurs had tested the interlining?
25 **A. Fairly certain I did, yes.**

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1 **DIDUCH**
2 Q. And do you recall what the response was,
3 if any?
4 **A. No.**
5 Q. The different suits -- strike that.
6 The suits that are the subject of the
7 complaint, do they all have the same fabric?
8 **A. No.**
9 Q. Was each of the fabric type of the suits
10 tested -- excuse me, let's go off the record for a
11 second.
12 (Whereupon, a discussion was had
13 off the record.)
14 (Whereupon, the record was read
15 as requested.)
16 **BY MS. MORGAN:**
17 Q. So I'll start over with that question.
18 Were the different fabrics tested with
19 the 630 prior to being produced?
20 **A. Yes.**
21 Q. And are those -- was that testing, the
22 result of that recorded anywhere?
23 **A. Inasmuch as the part of the testing**
24 **process is making prototypes and samples and showing**
25 **to suppliers, we might have written communication to**

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1 **DIDUCH**
2 **the effect that we saw this garment and it's nice or**
3 **it's approved or whatever, but not as a matter of**
4 **course.**
5 Q. Do you know any of those communications
6 exist?
7 **A. Not off the top of my head. Sorry, can I**
8 **strike that? I do know of communications of one**
9 **sample.**
10 Q. Okay. Can you describe that
11 communication?
12 **A. There's an e-mail from Charles Hufford**
13 **who is one of the buyers of Dillard's, and he has**
14 **what we call a top of production sample which is the**
15 **first garment that comes off of production line**
16 **which is sent off to Dillard's for approval before**
17 **we ship. So this is -- this is no longer**
18 **prototyping. This is an example of production.**
19 **Charles Hufford refers to it in his e-mail and he**
20 **said, when we first got this garment, it looked**
21 **fine, it's now exhibiting this bubbling defect.**
22 Q. When was that e-mail?
23 **A. I don't recall the month. It would have**
24 **been the spring of last year.**
25 Q. These -- the suits that are the subject

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1 **DIDUCH**
2 **of the complaint are spring suits, correct?**
3 **A. Yes.**
4 Q. Were they -- the production run with the
5 630 prior to that, did that involve a different
6 season?
7 **A. We would have used it on spring and fall**
8 **goods.**
9 Q. Prior to the production run that --
10 **A. That was problematic. I'm sorry, I cut**
11 **you off.**
12 Q. Did Hickey Freeman receive samples of the
13 630 at any point in time?
14 **A. Yes.**
15 Q. And do you recall the first time that
16 Hickey Freeman received such samples?
17 **A. No.**
18 Q. Do you recall the first time while you've
19 been at Hickey Freeman that it received any samples?
20 **A. No.**
21 Q. Did Hickey Freeman receive the samples
22 prior to you joining?
23 **A. Yeah.**
24 Q. And how do you know that?
25 **A. We discussed it with the trim purchaser**

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1 **DIDUCH**
2 **at Samuelsohn.**
3 Q. Can you tell me the sum and substance of
4 that conversation?
5 **A. I think we were trying to figure out when**
6 **we started using it and who had done the testing.**
7 **It seemed to have predated Samuelsohn's purchaser,**
8 **so none of us were entirely sure exactly at what**
9 **point we started using it in the company.**
10 Q. Do you know why Hickey Freeman started
11 using the 630?
12 **A. We started using skin fusible in general**
13 **because the company's now using lighter weight**
14 **cloths than we were accustomed to in the past and**
15 **they required stabilization.**
16 Q. Do you know why Hickey Freeman decided to
17 use the 630 in particular?
18 **A. It was currently in use at Samuelsohn and**
19 **had been for several years.**
20 Q. Did Hickey Freeman start using the 630
21 based on a recommendation from Samuelsohn?
22 **MR. D'ANGELO: Objection.**
23 **THE WITNESS: I wasn't there. I don't know.**
24 **BY MS. MORGAN:**
25 Q. What does a trim purchaser do?

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1 **DIDUCH**
2 **A. She purchases trims.**
3 Q. And that includes interlining?
4 **A. Yes.**
5 Q. During your discussions with the trim
6 purchaser at Samuelsohn, did that topic ever come up
7 how Hickey Freeman started to use the 630?
8 **A. Yes.**
9 Q. And what were the discussions?
10 **A. It was more about why the company started**
11 **using it in general and when. I don't remember any**
12 **more specifics about what was discussed.**
13 Q. And when you say "the company", you mean
14 Hickey Freeman?
15 **A. Well, also Samuelsohn, luxury men's**
16 **apparel group.**
17 Q. Do you know why Samuelsohn started using
18 the 630?
19 **A. Not the 630 in particular.**
20 Q. Can you describe what you mean by that
21 response?
22 **A. I know why they started using skin**
23 **fusing, but I don't know why they started using the**
24 **630.**
25 Q. Do you know if anybody from Hickey

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1 DIDUCH
2 Freeman communicated to Veratex what type of suits
3 it wanted to use the 630 for? And by "suits" I mean
4 the ones that are the subject of the complaint.
5 **A. Probably.**
6 Q. Is that a guess?
7 **A. It's an assumption.**
8 Q. Based on what?
9 **A. That's usually the course of our**
10 **business. We communicate with the supplier about**
11 **what we intend to use it for.**
12 Q. When we're talking about supplier here,
13 when you're using that word, do you mean the
14 distributor or the manufacturer?
15 **A. Well, in this case, the distributor.**
16 Q. So is it typically -- is it fair to say
17 that it's typically Hickey Freeman's practice to
18 discuss the type of fabric it's going to use with
19 Veratex?
20 **A. Yes.**
21 Q. Is that what you're saying?
22 Do you recall specifically if
23 Hickey Freeman discussed the type of fabric that is
24 the subject -- that is in the suits of the
25 subject -- strike that. I've had too much coffee

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1 DIDUCH
2 this morning.
3 Do you specifically recall if
4 Hickey Freeman told Veratex what kind of fabric it
5 was going to be using in the subject suits with the
6 630?
7 **A. I don't remember specifics.**
8 Q. Do you remember generalities?
9 **A. I don't recall. We chat about it, but I**
10 **don't -- you know, we don't get into -- super into**
11 **the weeds about it.**
12 Q. When you say "we chat about it," who do
13 you mean? Who's the "we"?
14 **A. I would discuss it with Barry.**
15 Q. Do you remember telling Barry about the
16 type of suits you were going to use for this
17 particular production?
18 **MR. D'ANGELO:** Objection.
19 **MR. NIEDERER:** Objection to form, asked and
20 answered.
21 **MR. D'ANGELO:** Mine's just an objection to
22 form.
23 **THE WITNESS:** Can I have it read back, please.
24 (Whereupon, the record was read
25 as requested.)

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1 DIDUCH
2 **THE WITNESS:** Generally.
3 **BY MS. MORGAN:**
4 Q. When Hickey Freeman receives samples of
5 interlining, what is the purpose of that?
6 **A. Purpose of what?**
7 Q. Receiving the samples. Is it to
8 determine if they wanted to ultimately start
9 purchasing and using the interlining?
10 **A. Yes.**
11 Q. Once Hickey Freeman receives a sample,
12 can you describe the types of tests that are
13 performed?
14 **A. We would do the bond strength test, we**
15 **would make a garment with it, and then we would**
16 **evaluate the garment.**
17 Q. And who typically does the testing on the
18 sampling?
19 **A. Are you saying the initial sample -- the**
20 **swatch or the garment?**
21 Q. I'm talking about the sample of
22 interlining that you -- that Hickey Freeman
23 receives.
24 **A. The lab would perform the initial tests**
25 **and then we make a garment.**

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1 **DIDUCH**
2 Q. What are the tests that the lab performs?
3 **A. The bond strength test and now we do a**
4 **strikeback test.**
5 Q. Did Hickey Freeman at any point tell any
6 defendant in this lawsuit that they were conducting
7 testing on the interlining samples of the 630?
8 **A. At any point in time?**
9 Q. Yes.
10 **A. Yes.**
11 Q. When was that?
12 **A. At the very least, I told them we were**
13 **testing it.**
14 Q. When was that?
15 **A. In February.**
16 Q. Of what year?
17 **A. 2017.**
18 Q. Isn't it correct that Hickey Freeman
19 received samples of the interlining before
20 February 2017?
21 **A. Yes.**
22 Q. And at that point when it received the
23 samples and did the testing, did Hickey --
24 **A. Well, we didn't receive samples in 2017.**
25 **We were testing the product.**

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1 **DIDUCH**
2 Q. Correct. So my question is prior to
3 February 2017, Hickey Freeman received samples of
4 the 630, correct?
5 **A. Yes.**
6 Q. And when it received the samples, it
7 conducted testing on that, correct?
8 **A. Presumably.**
9 Q. Assuming that it did, are you aware of
10 Hickey Freeman telling any defendant that it was
11 performing that testing?
12 **A. I wasn't there at the time.**
13 Q. Are you aware, even though you weren't
14 there, that whether or not any Hickey Freeman
15 employee communicated that to any defendant?
16 **A. It would be safe to assume that if we**
17 **purchased that, that someone said, yes, it's good.**
18 Q. My question is if you're aware of anybody
19 from Hickey Freeman communicating to any defendant
20 that it was testing the interlining samples of the
21 630?
22 **MR. D'ANGELO:** Objection, asked and answered,
23 objection to form.
24 **THE WITNESS:** When we were given a sample to
25 test, we say, yes, we're testing it or, no, we're

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1 **DIDUCH**
2 not testing it. And then if we buy it, it means the
3 test was successful.
4 **BY MS. MORGAN:**
5 Q. So is it -- is it fair to say that you
6 don't know specifically if that statement was ever
7 made to any defendant, but you assume that it was?
8 **MR. D'ANGELO:** Objection to form,
9 mischaracterizes testimony.
10 **THE WITNESS:** I wasn't there, so I can't say
11 what was said or not.
12 **MS. MORGAN:** So you don't know, okay.
13 **MR. D'ANGELO:** Is that a question?
14 **MS. MORGAN:** No.
15 **MR. D'ANGELO:** Okay. It's just a statement.
16 **BY MS. MORGAN:**
17 Q. With regards to the 630, at any point in
18 time, did Hickey Freeman ask any other party to
19 perform testing on it?
20 **MR. D'ANGELO:** Objection. I'm going to
21 instruct the witness to exclude from his answer
22 any -- anything he may have learned over the course
23 of this case from counsel or any other contents or
24 privileged communications.
25 To the extent you can answer the question

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1 **DIDUCH**
2 without revealing the contents of privileged
3 communications, you may do so.
4 **MR. NIEDERER:** Can I just get a clarification
5 on your instruction. You're talking about any
6 specifically retained experts. You're not talking
7 about any factual information regarding Veratex or
8 Chargeurs?
9 **MR. D'ANGELO:** Well, the question wasn't about
10 what Chargeurs or Veratex did. The question was
11 about what Hickey Freeman did.
12 **MR. NIEDERER:** Right, Hickey Freeman's
13 knowledge regarding testing.
14 **MS. MORGAN:** Well, it's what Hickey Freeman --
15 whether Hickey Freeman asked another party to
16 perform testing --
17 **MR. NIEDERER:** Yeah.
18 **MS. MORGAN:** -- on the interlining.
19 **MR. D'ANGELO:** Right.
20 **MS. MORGAN:** And I don't want to know about
21 any work that may or may not be being done by
22 experts being retained in this litigation.
23 **MR. D'ANGELO:** Outside the context of anything
24 that Hickey Freeman may or may not be doing as part
25 of this litigation, you can testify about any

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1 **DIDUCH**
2 requests that Hickey Freeman made to any third party
3 to perform testing.
4 **THE WITNESS:** Yes.
5 **BY MS. MORGAN:**
6 Q. What parties or party would be that?
7 **A. Fran Natale.**
8 Q. Anybody else?
9 **A. I think Barry was involved in that**
10 **conversation, though I remember it was Fran who was**
11 **going to perform the testing.**
12 Q. Anybody else?
13 **A. Would that include dry cleaners?**
14 Q. Yes, if they were contracted to do testing.
15 **MR. D'ANGELO:** I guess I'm going to object to
16 vagueness, because it's not clear what you mean by
17 "testing." I think that's where the witness's
18 confusion stems.
19 **BY MS. MORGAN:**
20 Q. If a dry cleaner was -- if Hickey Freeman
21 asked a dry cleaner to perform any testing on the
22 630, then that would fall under that question.
23 **A. The dry cleaner wouldn't have been asked**
24 **to provide any kind of opinion or result. They were**
25 **just asked to dry clean the garment so then we could**

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1 **DIDUCH**
2 **subsequently determine the result.**
3 Q. Do you remember what dry cleaner was used?
4 **A. We used two different dry cleaners in**
5 **Rochester, and there was a dry cleaner in**
6 **Little Rock.**
7 Q. The two in Rochester, what were those?
8 **A. I don't recall the names.**
9 Q. When was that testing -- when was that
10 dry cleaning done?
11 **A. It was in the spring of 2017.**
12 Q. Do you remember the name of the one in
13 Little Rock?
14 **A. No.**
15 Q. If you wanted to find out those names,
16 could you do it?
17 **A. Probably.**
18 Q. How would you do that?
19 **A. The dry cleaning that was done in**
20 **Rochester was performed by Donny Wray and**
21 **Pranay Shah, and so they would likely remember the**
22 **names of the dry cleaners. The one in Little Rock**
23 **we used on the recommendation of Dillard's, and so I**
24 **could find out which one it was.**
25 Q. Other than the three dry cleaners,

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1 **DIDUCH**
2 Fran Natale and Barry Diamond, did Hickey Freeman
3 ask anybody else to perform any type of testing on
4 the interlining?
5 **MR. D'ANGELO:** And the same instruction to the
6 witness to exclude from his answer any testing that
7 may or may not be performed in the context of the
8 litigation.
9 **THE WITNESS:** I think that was it.
10 **MS. MORGAN:** Did you get that?
11 **THE REPORTER:** "I think that was it."
12 **BY MS. MORGAN:**
13 Q. Okay. Did Hickey Freeman ask Chargeurs
14 to do any testing on the interlining?
15 **MR. D'ANGELO:** You mean after February 2017?
16 **THE WITNESS:** Yes.
17 **BY MS. MORGAN:**
18 Q. At any point in time.
19 **A. Yes.**
20 Q. And are you referring to Fran Natale?
21 **A. Yes.**
22 Q. Anybody else other than Fran Natale?
23 **A. No.**
24 Q. The conversation that you testified to
25 earlier that included Barry Diamond, can you tell me

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1 **DIDUCH**
2 about that?
3 **A. At that time, they were in our**
4 **presence -- premises rather, we were trying to**
5 **determine -- at that point, we really didn't know**
6 **the cause. We were trying to determine the cause.**
7 **We were trying to determine whether peeling would be**
8 **a sufficient remedy or if after peeling, because the**
9 **strikeback was so bad, it could re-adhere in**
10 **subsequent pressings.**
11 **We were going to perform dry cleaning**
12 **tests and Fran offered to do some testing. Knowing**
13 **that Fran would have access to better dry cleaners**
14 **and better testing equipment and better testing**
15 **facilities than we did, I was relying on Fran's**
16 **advice as to whether this would be an adequate**
17 **remedy.**
18 Q. The pulling?
19 **A. Yes.**
20 Q. What made you believe that Fran had
21 access to better testing?
22 **A. Fran was in the New York City area where**
23 **there's lots of dry cleaners and facilities, and if**
24 **you want to have something tested properly, you can**
25 **access it here, whereas in Rochester, we don't have**

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1 **DIDUCH**
2 **these things.**
3 Q. And do you know if Mr. Natale, in fact,
4 performed that testing?
5 **A. Yes, he did.**
6 Q. And was that -- were those testing
7 results communicated to you?
8 **A. Yes, they were.**
9 Q. And how were they communicated to you?
10 **A. He called me and said, we did our**
11 **testing, it's not going to re-adhere after cleaning.**
12 Q. And by "cleaning", do you mean dry
13 cleaning?
14 **A. Dry cleaning.**
15 Q. When was that conversation?
16 **A. Within days of their visit in**
17 **February 2017.**
18 Q. On that call with Fran Natale, was
19 Barry Diamond also on the phone?
20 **A. No.**
21 Q. Did Fran Natale communicate any other
22 results of his testing?
23 **A. I don't recall.**
24 Q. Other than Fran Natale having access to
25 New York City facilities, is there any other reason

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1 DIDUCH
2 why, to use your words, you relied on Mr. Natale's
3 testing?
4 **A. Being a representative of a manufacturer**
5 **of fusible interlining, I figured he'd have a better**
6 **idea of testing protocols for fusible.**
7 Q. Any other reasons?
8 **A. No.**
9 Q. Did Mr. Natale discuss the way in which
10 he performed any of the testing in New York City?
11 **A. I don't recall details of it.**
12 Q. Do you know if Veratex performed any
13 testing after their visit in February 2017?
14 **A. I don't know.**
15 Q. When did Hickey Freeman first learn of
16 the alleged defect that's the subject of the
17 complaint?
18 **A. February 20, 2017.**
19 Q. How did they learn of the alleged defect?
20 **A. We received an e-mail with some photos**
21 **from our customer.**
22 Q. Which customer?
23 **A. Ascot Shop.**
24 Q. And who received that e-mail?
25 **A. I think our account executive**

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1 **DIDUCH**
2 **Michael Delaney received it who would have forwarded**
3 **it to the Natalie Condon who would have then**
4 **forwarded it to me.**
5 Q. After receipt of that e-mail around
6 February 20, 2017, what did you do when it was
7 forwarded to you?
8 **A. I stopped production. We isolated all**
9 **the rolls of 630. I went into the warehouse to try**
10 **to find a suit in similar fabric to the fabric that**
11 **was hanging in the Ascot Shop to determine if I**
12 **could find strikeback there. I contacted Barry and**
13 **told them we had a problem. I started a vast series**
14 **of tests which included testing alternate**
15 **interlinings. I instructed our purchasing**
16 **department to order a replacement interlining for at**
17 **least a week to keep us going so that we could use**
18 **something other than the 630 while we determined**
19 **what was going on. That was -- yeah, that was a**
20 **busy day.**
21 Q. Did you do all that in one day, in the
22 same day?
23 **A. Yes.**
24 Q. Do you remember when you personally
25 received the e-mail about the Ascot Shop?

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1 DIDUCH
2 **A. I'm fairly certain it was toward noon on**
3 **the 21st of February.**
4 Q. And so you immediately stopped production
5 the same day that you received it?
6 **A. Instantly.**
7 Q. And what about that e-mail caused you to
8 instantly stop the production?
9 **A. There was some terrible bubbles on the**
10 **front of the coat which appeared to have been the**
11 **result of a fusible interlining, and we couldn't**
12 **take the risk of continuing using an interlining if**
13 **there was a problem, so we had to stop cutting and**
14 **fusing and using it until we determined what was**
15 **going on.**
16 Q. So by pictures, you mean the e-mail
17 contained photos?
18 **A. Yes.**
19 Q. Did you contact the Ascot Shop that day?
20 **A. Again, our account executive did.**
21 Q. That day you stopped production?
22 **A. I think he would have contacted them the**
23 **day before.**
24 Q. And did -- was that conversation
25 communicated to you?

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1 DIDUCH
2 **A. The gist of it.**
3 Q. What was the gist of it?
4 **A. That they had a problem in the store.**
5 **They didn't want to take them off the floor for too**
6 **long because they were going to lose some selling**
7 **time, so they wanted to know what was the problem.**
8 Q. And did Hickey Freeman provide an answer?
9 **A. I don't remember if we wrote an answer to**
10 **that specific query.**
11 Q. Did Hickey Freeman at any point tell
12 Ascot Shop what the problem was?
13 **A. I believe we communicated it to them.**
14 Q. When you went and determined -- when you
15 looked at the premises of Hickey Freeman to see if
16 there was a suit that matched the suits at
17 Ascot Shop, did you find any?
18 **A. It was my recollection that I did.**
19 Q. And what did you do with that find?
20 **A. I peeled some of the pocketing that had**
21 **adhered and was able to determine that it was actual**
22 **strikeback and not delamination.**
23 Q. Did you make that determination based on
24 finding the similar -- the suit that was similar to
25 the Ascot Shop fabric?

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1 DIDUCH
2 A. Yes.
3 Q. And the peeling that you did, how did you
4 know -- how did you get the idea to peel the suit?
5 A. To test whether it was delamination or
6 strikeback, it's easy to sort of take one of the
7 bubbles and you can either separate the fabric from
8 the fusible, in which case it's delamination. I
9 couldn't do that. Instead I was able to determine
10 that the cloth and the fusible together were bonding
11 to the pocketing, which indicated it was strikeback.
12 Q. The peeling method that you used, when
13 did you learn that as a method?
14 A. As a method -- how to peel two pieces of
15 fabric apart?
16 Q. Yes.
17 A. In 1998. I mean, it was --
18 Q. Was it during your time at the university?
19 A. No. It was at either at S. Cohen or
20 previous. Vera showed me.
21 Q. And it was at that point that you
22 determined it was strikeback?
23 A. Yes.
24 Q. And did you confer with anybody about
25 that conclusion that you had?

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1 DIDUCH
2 A. I notified Barry. I sent him a picture,
3 and he said, no, that's not strikeback. And I
4 responded, yes, it is, get here.
5 Q. Do you know what Barry thought it was, if
6 anything?
7 A. I'm not a mind reader.
8 Q. Did he communicate that to you at all?
9 A. No.
10 Q. Did you share your observation of --
11 excuse me, strike that.
12 Did you share your conclusion of
13 strikeback with anybody at Hickey Freeman at that
14 point?
15 A. Yes.
16 Q. And who did you share that with?
17 A. I would have shared it with Sal; I would
18 have shared it with Roy; I would have shared it with
19 Natalie; I would have shared it with Alan.
20 Q. Did anybody at Hickey Freeman have a
21 different conclusion than you?
22 A. No.
23 Q. Did anyone at Hickey Freeman come to that
24 same conclusion independently?
25 A. They concurred with it. We weren't

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1 DIDUCH
2 leading parallel investigations, so we didn't have
3 somebody else doing the same thing somewhere else
4 and they also came and said, yes, it's this. I made
5 the initial determination and then people said, yes,
6 you're right, that's what it is.
7 Q. The series of tests that you started to
8 perform after you contacted Barry, what were those?
9 A. Can we get into that after lunch, because
10 it's really lengthy or do I need to answer that now?
11 Q. Oh, let's talk about that. We can go off
12 the record to discuss lunch.
13 (Whereupon, a discussion was had
14 off the record.)
15 (Whereupon, a lunch break was
16 taken from 12:31 p.m. - 1:23 p.m.)
17 (Whereupon, Defendant's
18 Deposition Exhibit Nos. 3 and 4
19 were marked for identification.)
20 BY MS. MORGAN:
21 Q. Mr. Diduch, do you understand that you're
22 still under oath?
23 A. Yes.
24 Q. Previously we were discussing the data
25 sheet from Veratex. Do you recall that?

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1 DIDUCH
2 A. Yes.
3 Q. If you could take a look at Exhibit 3,
4 this is a data sheet for the 630 by Veratex, and
5 when you've had an opportunity to review, please let
6 me know.
7 A. Yes.
8 Q. So with the subject suits that -- strike
9 that.
10 With the suits that are the subject of
11 the complaint, when they were being manufactured,
12 was Hickey Freeman using the parameters in that data
13 sheet?
14 MR. NIEDERER: Objection to form.
15 THE WITNESS: Yes.
16 BY MS. MORGAN:
17 Q. If Hickey Freeman wanted to check the
18 parameters that were actually used at the time of
19 that manufacturing, could it do so?
20 MR. D'ANGELO: Objection to form. Could it do
21 so now or could it have done so at the time or --
22 MS. MORGAN: Now.
23 THE WITNESS: I think we would have a record
24 of what the parameters were at the time.
25

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Okay. And where -- where is that record?
4 **A. Maintenance would have that if it exists.**
5 Q. To the extent that it exists?
6 **A. If it exists.**
7 Q. And by record, do you mean that
8 maintenance may know the -- wait a minute a
9 moment -- may know the actual temperature, glue line
10 pressure and time that was used during the
11 manufacturing process?
12 **A. Maintenance would know what the machine**
13 **settings were at the time.**
14 Q. And I apologize to be a little bit
15 particular, but they do -- they would know or you
16 think that they may know?
17 **A. I think that they may know.**
18 Q. And other than maintenance, do you know
19 of any other source to determine if these parameters
20 and the data sheet were used in the manufacturing
21 process?
22 **A. I don't know.**
23 Q. I'm presenting you as well with Exhibit
24 Number 4. If you could take a look at that. That
25 is a Chargeurs data sheet of the 3069. And after

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1 DIDUCH
2 you've had an opportunity to review it, please let
3 me know.
4 **A. Uh-huh.**
5 Q. Is that a yes?
6 **A. Yes.**
7 Q. Prior to me presenting you with this
8 exhibit, had you seen that data sheet before?
9 **A. Not within the context of our ordinary**
10 **business.**
11 Q. Aside from any preparation for this
12 deposition and me presenting you with this exhibit,
13 had you seen that data sheet before?
14 **A. No.**
15 Q. You can put those exhibits aside,
16 Mr. Diduch.
17 **A. There may be a test.**
18 **MR. D'ANGELO:** The whole day is a test.
19 **BY MS. MORGAN:**
20 Q. Earlier you testified that the time
21 period when Hickey Freeman potentially received
22 samples of the 630 was before your time. Do you
23 recall that?
24 **A. Yes.**
25 Q. Do you know if, in fact, Hickey Freeman

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1 DIDUCH
2 did receive samples?
3 **MR. D'ANGELO:** Objection to form.
4 **THE WITNESS:** I'm assuming. Well, we got a
5 piece. It's not necessarily samples. Samuelsohn
6 would have sent us a piece of it, yes, to test out.
7 I mean, I suppose how do you define "samples?"
8 **BY MS. MORGAN:**
9 Q. Did Veratex provide any samples of the
10 630 prior to Hickey Freeman using the 630?
11 **A. To the best of my knowledge, yes.**
12 Q. And what is your knowledge based on?
13 **A. Conversations with people who were around**
14 **previous to me.**
15 Q. And which people were those?
16 **A. Maggie, perhaps Paul.**
17 Q. And Maggie, what is Maggie's last name?
18 **A. Leedka (phonetic).**
19 Q. Is Maggie employed by Hickey Freeman?
20 **A. She's employed by Samuelsohn.**
21 Q. And the other individual, can you state
22 their full name?
23 **A. Paul Farrington.**
24 Q. And was he employed by Hickey Freeman at
25 the time of this conversation?

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1 DIDUCH
2 **A. Perhaps. He was my predecessor at**
3 **Hickey Freeman, there was a brief period of overlap,**
4 **and then he went to Samuelsohn.**
5 Q. Is that where he is currently?
6 **A. Yes.**
7 Q. And is it your understanding that Maggie
8 and Paul discussed with you that Veratex provided
9 samples of the 630 to Hickey Freeman?
10 **A. I don't recall.**
11 Q. So the conversation that you were just
12 testifying about, was that -- that potentially
13 happened or potentially did not? You're not sure?
14 **A. I don't remember the exact details of the**
15 **conversation.**
16 Q. Do you remember any details of it?
17 **A. I remember talking about the fact that it**
18 **had been in use at Samuelsohn previously for quite a**
19 **bit of time. I remember Paul talking about using it**
20 **at Hickey Freeman. I don't remember a lot more**
21 **details.**
22 Q. You previously stated that Samuelsohn may
23 have given you a piece of the 630 I believe. Can
24 you just -- was that a yes?
25 **A. That's correct.**

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1 **DIDUCH**
2 Q. You were nodding, okay.
3 Can you describe what you were referring
4 to?
5 **A. Samuelsohn has in the past given us**
6 **pieces of things that they use for us to test out.**
7 Q. And by "pieces", do you mean pieces of
8 interlining?
9 **A. Yes.**
10 Q. Does that include anything else?
11 **A. It could be sleeve heads or shoulder pads**
12 **or it could be any number of the 80 components that**
13 **go into a suit.**
14 Q. And do you know if at any point in time
15 Samuelsohn gave Hickey Freeman a piece of the 630?
16 **A. I think they might have.**
17 Q. What is the basis of that belief?
18 **A. It would either have come from Samuelsohn**
19 **or from Veratex. Because Samuelsohn was using it,**
20 **it might have been easier simply to transfer a piece**
21 **in her company than for us to set up a vendor and**
22 **purchase it.**
23 Q. Did Samuelsohn recommend to Hickey
24 Freeman to use the 630?
25 **A. I don't know.**

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1 **DIDUCH**
2 **MR. D'ANGELO:** Objection to form and asked and
3 answered.
4 **MR. NIEDERER:** Can we go off the record for a
5 minute?
6 **MS. MORGAN:** Yeah.
7 (Whereupon, a discussion was had
8 off the record.)
9 (Whereupon, the record was read
10 as requested.)
11 **BY MS. MORGAN:**
12 Q. Mr. Diduch, previously when you were
13 talking about samples being provided to Hickey
14 Freeman, whether it came from Samuelsohn or Veratex,
15 was that a supposition or was that based on actual
16 knowledge?
17 **MR. D'ANGELO:** Objection to form.
18 **THE WITNESS:** What was what based on
19 supposition?
20 **BY MS. MORGAN:**
21 Q. That Hickey Freeman at one point received
22 samples of the 630 from either Veratex or
23 Samuelsohn?
24 **A. It's a reasonable supposition. We don't**
25 **adopt a product without getting a sample of it and**

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1 **DIDUCH**
2 **testing it.**
3 Q. Did Hickey Freeman at any point tell
4 Samuelsohn that it was performing testing on any
5 samples of the 630 to ensure that there would be no
6 strikeback?
7 **MR. D'ANGELO:** Objection.
8 **THE WITNESS:** Prior to my arrival, I don't know.
9 **BY MS. MORGAN:**
10 Q. And to your knowledge, is the -- any
11 testing that was performed on any samples done prior
12 to your arrival?
13 **A. Say it again.**
14 Q. Was any testing done on samples of the
15 630 done prior to your arrival?
16 **MR. D'ANGELO:** Just note my objection to the
17 term "sample" as being vague.
18 **THE WITNESS:** I would assume so.
19 **BY MS. MORGAN:**
20 Q. Earlier you testified to a series of
21 events that you did after receiving an e-mail from
22 Ascot Shop. Do you recall that?
23 **A. Yes. Yes.**
24 Q. You mentioned that you started a series
25 of tests. Do you recall that?

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1 **DIDUCH**
2 **A. Yes. Yes.**
3 Q. Can you describe to me those tests that
4 you initiated.
5 **A. Yes, they were a rather elaborate set of**
6 **tests to attempt to identify and isolate variables**
7 **such as the different materials, the different**
8 **interlinings, the different components that might**
9 **have come into contact, the different machines, the**
10 **different operations. The initial challenge in**
11 **performing adequate testing was that when I went to**
12 **look for what would serve as a control piece,**
13 **meaning a piece of interlining that we had used**
14 **previously and had no problem with, when I selected**
15 **a roll that was marked as being 630, I looked at the**
16 **back of it and the dot pattern was very different**
17 **from the problematic rolls. And I asked Barry about**
18 **it and he says, well, the rainbow design is the**
19 **proprietary dot pattern of Chargeurs, and so I**
20 **assumed we must have mislabeled the other roll**
21 **because the dot pattern was completely different.**
22 **So I started trying to do testing without**
23 **a proper control piece. I had some two or three**
24 **samples from competitors of the same weight that I**
25 **used to test the fusing machine to see how they**

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1 **DIDUCH**
2 would each react and then use those three pieces at
3 each pressing machine to see if I could determine
4 whether strikeback was a result more of the actual
5 interlining or if it was to do with one of the
6 machines.
7 I was able to show that the Chargeurs
8 interlining was failing after certain operations
9 where the competitor's interlining was not. This
10 was a part of my process in selecting an alternate
11 interlining because when we stopped production, I
12 couldn't send 300 people home for a week. We needed
13 to figure out how to keep running, but we couldn't
14 keep running with the 630. So I needed to determine
15 whether these alternate fusibles would fail under
16 these normal circumstances.
17 Normally I would like to make a garment
18 rather than just testing swatches, but that would
19 have taken at least a week and we didn't have that
20 time. But since it was very clear in that initial
21 testing that the Chargeurs fusible was failing where
22 the others were still performing, I felt comfortable
23 in making a selection of a competitor product.
24 I then did some testing where I tested
25 the pocketing that we used in those suits versus

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1 **DIDUCH**
2 different kinds of pocketing of different qualities
3 to see if perhaps there was some kind of chemical
4 reaction happening between them. I tested the
5 canvas and different kinds of canvas in pressing
6 against it. What else did I do?
7 I was testing every single roll of the
8 Chargeurs product to see if there was certain rolls
9 that might behave differently than others. It was
10 difficult to measure the amount of strikeback. It
11 seemed just from observing that certain ones were
12 maybe slightly better or worse than others, but it
13 was not clear that there were certain rolls that
14 clearly failed and others didn't.
15 What else did I do? I'm drawing a blank
16 now. So that's maybe sort of it. I may remember
17 something later.
18 Q. Okay. Would the control piece that you
19 referenced, what did the pattern look like to you if
20 you recall?
21 A. The actual dot seemed smaller and it
22 seemed more of a random scatter pattern than the
23 very distinct rainbow pattern. I thought it was
24 another thing entirely, another quality of fusible
25 from somebody else that we had just mislabeled.

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1 **DIDUCH**
2 **MR. NIEDERER:** Can you read back that
3 response. I don't need the question, just the
4 response.
5 (Whereupon, the record was read
6 as requested.)
7 **BY MS. MORGAN:**
8 Q. You referenced a phone call with
9 Barry Diamond; is that correct?
10 A. Yes.
11 Q. Can you tell me about that conversation.
12 A. I don't remember much other than him
13 telling me that the rainbow pattern was a
14 proprietary pattern to Chargeurs, which led me to
15 think that this other piece could not, therefore, be
16 Chargeurs.
17 Q. Did Barry tell you anything to the extent
18 that the product was mislabeled?
19 A. No.
20 Q. When you discussed with Mr. Diamond
21 about -- strike that.
22 Did you tell Mr. Diamond that you saw a
23 random pattern?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** I don't recall.

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1 **DIDUCH**
2 **BY MS. MORGAN:**
3 Q. Did you discuss with Mr. Diamond any
4 thoughts that the interlining may be mislabeled?
5 A. I don't recall whether I mentioned it.
6 I think I just asked him about the pattern, but I
7 don't remember precisely.
8 Q. And did you end up using that control
9 piece in any testing?
10 A. No.
11 Q. When you tested every other roll of the
12 Chargeurs product, what -- did that product have the
13 random pattern as well or a rainbow pattern or some
14 other pattern?
15 A. They had the rainbow pattern.
16 **MR. D'ANGELO:** Can you read back the answer
17 and the question, please, Karen.
18 (Whereupon, the record was read
19 as requested.)
20 **BY MS. MORGAN:**
21 Q. Does Hickey Freeman still have that
22 control piece?
23 A. I don't know.
24 Q. And what was that? It was a prior stock
25 or what was the control piece?

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1 DIDUCH
2 A. When fusible comes into the house, the
3 rolls are in plastic bags and there's a sticker on
4 the plastic bag which has the roll number and the
5 article number. When we open the roll, we take the
6 sticker off and we put it inside the end of the roll
7 or sometimes we write a number on the roll. All I
8 had on this roll which was labeled with 630 was that
9 we thought it was 630, but I had no way of knowing
10 for sure that this actually was 630, so I discounted
11 it thinking when I saw the difference in the
12 patterns, I said this can't possibly be 630, we must
13 have put the wrong ticket into the roll.
14 Q. Was it just one roll that had that other
15 pattern?
16 A. At the time.
17 Q. Later did you find other rolls that were
18 labeled 630 and didn't have the rainbow pattern that
19 you discussed?
20 A. There may have been a couple, but if it
21 wasn't specifically labeled like attached to the
22 roll, I didn't spend too much time looking at it
23 because I wasn't sure -- I couldn't be sure it was it.
24 Q. And when you mean attached to the roll,
25 do you mean the article number affixed to the roll

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1 DIDUCH
2 with some kind of adhesive?
3 A. That's correct.
4 Q. The alternate fusibles that you used
5 without the control piece, what were those?
6 A. They were also 34-gram skin fusibles from
7 competitors.
8 Q. Which ones?
9 A. Freudenberg and Kufner.
10 Q. And is it correct that you also used a
11 Chargeurs interlining with the rainbow pattern that
12 you found; is that right?
13 A. That was the 630.
14 Q. Yes. So you located -- you put the
15 control piece -- the interlining with the roll that
16 had the scattered pattern and you located a roll
17 that was labeled 630 that appeared to have the
18 rainbow pattern?
19 A. That's correct.
20 Q. And you used that with these two
21 competitor interlinings; is that correct?
22 A. That's correct.
23 Q. And can you tell me how you conducted
24 that test?
25 A. I ran in through the fusing machine, so I

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1 DIDUCH
2 looked at the bond strength, and then I ran them
3 through a series of underpressing operations to
4 simulate the production of a coat.
5 Q. Did you do anything else?
6 A. No.
7 Q. Was that videotaped?
8 A. Not the process.
9 Q. Well, was any part of it videotaped?
10 A. The result of one of them.
11 Q. Who videotaped it?
12 A. I did.
13 Q. You said "the result of one of them"?
14 A. Yes.
15 Q. And can you describe what you mean by
16 that.
17 A. I didn't videotape the process of testing
18 it, but when it came off of one of the pressing
19 operations, I had somebody holding my phone filming
20 where I lifted the pocketing off of a competitor
21 product and it lifted right off, and then I picked
22 up the Chargeurs product and the pocketing was
23 adhering.
24 Q. Do you remember which competitor product
25 was videoed?

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1 DIDUCH
2 A. It was a BVM40 from Freudenberg.
3 Q. What about the Kufner?
4 A. I don't remember the article numbers.
5 Q. Did -- was that -- was the result of the
6 Kufner test recorded?
7 A. No.
8 Q. Why not?
9 A. I just had one swatch that I had where I
10 was trying to communicate to Barry that under these
11 machine settings, one of them clearly fails and one
12 of them clearly is performing correctly.
13 Q. I guess my question is -- let me rephrase
14 it -- if you recorded the results of the
15 Chargeurs -- the test with the Chargeurs interlining
16 and the recorded the results of the interlining with
17 the Freudenberg, why did you not record the results
18 with the Kufner?
19 A. My interest was just to show that I have
20 two different products of the same weight side by
21 side and here's a side by side comparison. I didn't
22 do three different video recordings. I just said
23 here's two products and the Freudenberg was the one
24 I preferred out of all of them and I said look at
25 how these work.

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1 **DIDUCH**
2 Q. Do you remember the results of the test
3 with Kufner?
4 **A. Yes.**
5 Q. And can you describe those results?
6 **A. It performed properly.**
7 Q. Was anybody with you while you were doing
8 those tests?
9 **A. Somebody would have been holding my phone**
10 **to look at the results. I don't remember who that**
11 **was.**
12 Q. You said you preferred the Freudenberg.
13 Why is that?
14 **A. I preferred the hand of it -- the hand**
15 **feel.**
16 Q. Over the hand feel of the Kufner?
17 **A. That's correct.**
18 Q. What did the Kufner feel like?
19 **A. It just didn't appeal to me as much as**
20 **the Freudenberg did.**
21 Q. Did it feel rough or grainy?
22 **A. No.**
23 Q. And how did the Chargeurs interlining
24 perform?
25 **A. It struck back.**

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1 **DIDUCH**
2 Q. After that one test with the two
3 competitors, did you do another test with
4 competitors?
5 **A. Not different competitors products.**
6 Q. Did you run the same test with
7 Freudenberg and Kufner again?
8 **MR. D'ANGELO:** After the first time?
9 **MS. MORGAN:** Correct.
10 **THE WITNESS:** I think the first time I ran
11 them, just the underpressing operations, and then I
12 did them again and I took them through the final
13 pressing operations as well.
14 **BY MS. MORGAN:**
15 Q. Did you record the final pressing
16 operation?
17 **A. No.**
18 Q. Why not?
19 **A. I didn't feel the need to.**
20 Q. And was anybody with you while you were
21 doing the testing with the final pressing with the
22 competitors?
23 **A. I don't think so.**
24 Q. The individual who was holding your phone
25 at the underpressing, do you recall if they were

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1 **DIDUCH**
2 with you at the final pressing?
3 **A. No, I don't think so.**
4 Q. Do you know if anybody else at
5 Hickey Freeman performed any testing with
6 competitors?
7 **A. I don't think so.**
8 Q. You mentioned that for the video
9 recording that you did, that you wanted to show
10 Barry or you testified to something to that effect.
11 Did you share that recording with Barry Diamond?
12 **A. Yes, I'm fairly certain I did.**
13 Q. And when did you do that?
14 **A. I don't remember the date.**
15 Q. How did you share it with him?
16 **A. I think I e-mailed it to him.**
17 Q. And did Mr. Diamond respond at all?
18 **A. I don't remember.**
19 Q. Aside from Barry Diamond, did you talk to
20 anybody else at Veratex during this investigation
21 stage in approximately after February 2017?
22 **MR. D'ANGELO:** Just note my objection to form.
23 **THE WITNESS:** No.
24 **BY MS. MORGAN:**
25 Q. Given you had three different articles of

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1 **DIDUCH**
2 interlining that you were testing, what were the
3 specifications that were used at the time of the
4 testing?
5 **A. What were what specifications?**
6 Q. I mean what were the temperature
7 parameters? What were the pressure parameters?
8 Things of that nature.
9 **A. We didn't change any of the parameters on**
10 **that fusing machines.**
11 Q. Can you tell me what the -- what you
12 believe the parameters were at that time?
13 **MR. D'ANGELO:** Objection.
14 **THE WITNESS:** I don't recall well enough to say.
15 **BY MS. MORGAN:**
16 Q. Did you record the parameters of that
17 testing at the time?
18 **A. I did not.**
19 Q. Did somebody else?
20 **A. I would doubt it.**
21 Q. Do you remember any -- anything -- any
22 part of the article of the Kufner, maybe just the
23 number or the letters associated with the article
24 reference?
25 **A. No.**

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1 **DIDUCH**
2 Q. Which -- strike that.
3 Did you end up selecting either the
4 Freudenberg or the Kufner that you used in that
5 testing as the, we'll call it, the replacement
6 interlining after you stopped the production with
7 the 630?
8 **A. Yes.**
9 Q. Which one?
10 **A. BVM40.**
11 Q. How long did Hickey Freeman use the BVM40?
12 **A. We still do.**
13 Q. Does Hickey Freeman use the 630 at all
14 today?
15 **A. No.**
16 Q. After February 2017 when you stopped the
17 production with the 630, did Hickey Freeman use the
18 630 after any point in time following that?
19 **A. No.**
20 Q. After February 2017, does Hickey Freeman
21 still -- does Hickey Freeman purchase any
22 interlining from Veratex?
23 **A. We may purchase a small part fusible.**
24 **I'm not sure.**
25 Q. Does that -- do you recall the article

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1 **DIDUCH**
2 number for that small part?
3 **A. No.**
4 Q. Aside from the 630, prior to
5 February 2017, was Hickey Freeman purchasing other
6 articles from Veratex?
7 **A. I don't know.**
8 Q. Aside from the 630, had Hickey Freeman
9 had any other problems with interlining purchased
10 from Veratex?
11 **A. State again.**
12 Q. Aside from the 630, has Hickey Freeman
13 ever had any other problems with interlining
14 purchased from Veratex?
15 **A. No, not to my knowledge.**
16 Q. Aside from the 630, which is manufactured
17 by Chargeurs, is there any other time in which
18 Hickey Freeman has had a problem with an interlining
19 article manufactured by any of the Chargeurs
20 entities?
21 **MR. D'ANGELO:** Objection to form.
22 **THE WITNESS:** Not to my knowledge.
23 **BY MS. MORGAN:**
24 Q. The testing with pocketing, can you
25 describe that testing that was performed.

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1 **DIDUCH**
2 **A. I laid a piece of fabric which had**
3 **fusible adhered to it on an underpressing machine**
4 **and I laid a folded piece of pocketing to simulate**
5 **the pocket bag on it, because at that point in**
6 **production, the coat would have had a pocket bag**
7 **attached to it, so this would accurately represent**
8 **the pressure and the thickness of a coat at that**
9 **stage in production.**
10 Q. And what were the results of the testing?
11 **A. The Chargeurs product stuck to the pocket.**
12 Q. Was that testing recorded?
13 **MR. D'ANGELO:** Objection to form.
14 **THE WITNESS:** Not the test itself, but the
15 result.
16 **BY MS. MORGAN:**
17 Q. Where was the result recorded?
18 **A. On a video.**
19 Q. Was somebody with you while you were
20 performing that test?
21 **MR. D'ANGELO:** Objection to form.
22 **THE WITNESS:** We've gone through this already.
23 **MR. D'ANGELO:** Asked and answered.
24 **BY MS. MORGAN:**
25 Q. Is that the person that you can't identify?

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1 **DIDUCH**
2 **A. Somebody was holding my phone to film that.**
3 Q. And the canvas that you tested, can you
4 describe that?
5 **A. It's a wool canvas product that we use as**
6 **a basis of the foundation of our coat.**
7 Q. What was the testing that you did?
8 **A. Similarly to the pocketing, I placed a**
9 **piece of canvas over the layers of fabric to**
10 **simulate how the garment would be in production in**
11 **the machine.**
12 Q. And what were the results of that test?
13 **A. It didn't change.**
14 Q. Do you believe that -- excuse me. Does
15 Hickey Freeman believe that the Chargeurs
16 interlining, the 3069, or as labeled by Veratex the
17 630 is defective?
18 **A. I believe it changed and the change**
19 **format of it did not function the way it's supposed**
20 **to.**
21 Q. What do you -- and I'm asking for
22 Hickey Freeman's position on that question. Was
23 that Hickey Freeman's answer or your own belief?
24 **MR. D'ANGELO:** Objection.
25 **THE WITNESS:** I'm not sure how I would

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1 DIDUCH
2 distinguish between the two.
3 **BY MS. MORGAN:**
4 Q. Well, for example, you as Mr. Diduch
5 could hold an opinion that Hickey Freeman doesn't
6 agree with and Hickey Freeman may have some other
7 opinion.
8 **A. Who or what is Hickey Freeman?**
9 Q. So today you're testifying on behalf of
10 Hickey Freeman. Do you understand that?
11 **A. Yes.**
12 Q. And it's also your personal testimony.
13 Do you understand that?
14 **A. Yes.**
15 Q. So what I'm asking is Hickey Freeman's
16 position on whether the Chargeurs interlining is
17 defective or not?
18 **A. Our position is that we did extensive**
19 **production on a product that was labeled as a 630**
20 **and it functioned correctly. At some point, there**
21 **was a change made to the product that was still**
22 **labeled as a 630. This change was not communicated**
23 **to Hickey Freeman, and this happened to coincide**
24 **with the timing of a failure of the product.**
25 Q. Do you know what the change was?

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1 DIDUCH
2 **A. The resin clearly changed.**
3 Q. What do you think changed about the resin?
4 **A. The transfer pattern and it seems the**
5 **size of the dots themselves had changed.**
6 Q. Anything else?
7 **A. Not that I know of.**
8 Q. Did you -- did you measure the dots that
9 you saw on the control piece?
10 **A. No.**
11 Q. Is your -- what is the basis of the
12 conclusion that the size of the dots changed?
13 **A. Maggie recently found a sample from we**
14 **think is 2012 that was labeled as a 630 and it looks**
15 **similar to the piece that I had originally thought**
16 **was a control piece and I compared it under a loop**
17 **to what had been shipped to us as 630 and looked at**
18 **the dot patterns, and the pattern on the sample that**
19 **she sent to us looked like the original random**
20 **scatter with the smaller dot.**
21 Q. In the 2012 sample that Maggie had, that
22 was a 630 interlining?
23 **A. It was labeled as 630.**
24 Q. Did the 2012 piece that Maggie located,
25 did that have the similar pattern that the control

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1 DIDUCH
2 piece had at Hickey Freeman?
3 **A. Yes.**
4 Q. Does Hickey Freeman have the 2012 sample
5 from Maggie in its possession?
6 **A. Somewhere.**
7 Q. At the plant?
8 **A. I think so.**
9 Q. What makes you believe that it's at the
10 plant?
11 **A. It came to me at the plant last week.**
12 **I don't remember exactly what we did with it.**
13 Q. Do you mean through the mail?
14 **A. No. I think Alan brought it.**
15 Q. Do you know how much quantity-wise --
16 **A. It's about, --**
17 Q. -- Alan brought?
18 **A. -- I would say, no more than six square**
19 **inches.**
20 Q. Aside from what you believe Alan brought,
21 are you aware of Hickey Freeman having any other
22 quantity of the 2012 sample from Maggie?
23 **A. No.**
24 Q. Or anybody else at Samuelsohn?
25 **A. No, I don't think so.**

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1 **DIDUCH**
2 Q. And did you say that you don't know what
3 you did with it or --
4 **A. I don't remember if I gave it to somebody**
5 **or if it's still in my office or if I have it in my**
6 **suitcase.**
7 Q. I'm not interested in anything that has
8 to do with your litigation purposes, but do you know
9 why Alan brought the six square inches to you?
10 **A. I asked him to.**
11 Q. Why did you ask him to?
12 **A. I wanted --**
13 **MR. D'ANGELO:** Again, just in the context of
14 giving your answer, if anything was discussed with
15 counsel, I'd ask you not to reveal the contents of
16 those conversations or any conversations you had as
17 a result of conversations with counsel.
18 **THE WITNESS:** What conversations were not the
19 result of conversations with counsel?
20 **MR. D'ANGELO:** Then if you're not able to
21 answer the question without referencing that, then
22 you can't answer the question, which is fine.
23 **THE WITNESS:** Remembering that I had perceived
24 the difference between what I thought was 630 and
25 what was actually labeled as 630 and knowing there

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1 DIDUCH
2 was a visible difference between the two, I wanted
3 him to bring the piece so I could look at it and say
4 does this look like what I remember as being what we
5 thought was 630 but then was potentially not, and is
6 there a visible difference in the resin pattern
7 between the sample that Maggie had and what we had
8 been delivered as 630.
9 **MS. MORGAN:** Can you read that answer back,
10 please.
11 (Whereupon, the record was read
12 as requested.)
13 **BY MS. MORGAN:**
14 Q. So for the -- did you believe that the
15 2012 sample might look like the control piece you
16 had looked at after February 2017?
17 **A. Yes.**
18 Q. And when you looked at it, what did you
19 think?
20 **A. They were very, very different. The**
21 **resin patterns were very different between the piece**
22 **she had from 2012 and what we had been delivered in**
23 **February of 2017.**
24 Q. Did you discuss that thought with Maggie?
25 **MR. D'ANGELO:** Objection to form.

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1 DIDUCH
2 **THE WITNESS:** I don't think so, no.
3 **BY MS. MORGAN:**
4 Q. Is Samuelsohn using the 630 currently?
5 **A. No.**
6 Q. Do you know when they stopped using the
7 630?
8 **A. No.**
9 Q. Aside from the resin change that you
10 described, is there any other way in which you think
11 the interlining may have changed?
12 **A. The only other change possible would be a**
13 **change to the substrate, but it doesn't look to the**
14 **naked eye that that was changed.**
15 **MR. NIEDERER:** Whenever you have time for a
16 short break.
17 **MS. MORGAN:** That's fine. Right now.
18 (Whereupon, a short break was
19 taken.)
20 **BY MS. MORGAN:**
21 Q. Mr. Diduch, do you understand that you're
22 still under oath?
23 **A. Yes.**
24 Q. The sample -- strike that.
25 The six-by-six square inch that you

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1 DIDUCH
2 mentioned that Alan Abramowicz brought to you in the
3 past week, can you describe to me what it looks like
4 that he brought you and the quantity to the best of
5 your knowledge.
6 **A. It's not six-by-six. It's probably**
7 **two-by-three. There's -- it's my recollection**
8 **there's a piece of white and a piece of black and**
9 **they're stuck to a piece of paper, and the label**
10 **that would have come off the roll that that**
11 **represented is on the paper.**
12 Q. And do you know if Maggie has more than
13 that amount?
14 **A. I don't think so.**
15 Q. What about anybody else at Hickey Freeman?
16 **A. No.**
17 **MS. MORGAN:** Okay. So to the extent that that
18 piece can be located, Frank, we call for production
19 of that and a sample of that to the extent it can be
20 given.
21 **MR. D'ANGELO:** Yeah, it'll be subject to the
22 same testing protocols that we've been working on
23 with respect to other materials that we've been
24 exchanging, but we'll discuss it offline.
25

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Did Alan Abramowicz bring you anything
4 else from Maggie that's related to that?
5 **A. No.**
6 Q. Aside from Mr. Diamond as you testified
7 stating to you that there's a rainbow pattern that's
8 associated with Chargeurs's interlining, did you
9 take -- did you undertake any investigation to
10 determine if any other type of interlining had that
11 kind of rainbow pattern?
12 **A. No.**
13 Q. And the change to the substrate, the
14 other possibility, can you describe to me if that
15 had occurred, what it would have looked like?
16 **A. There could have been a different number**
17 **of yarns per inch in either the warp or the weft.**
18 Q. Any other description for that?
19 **A. There could have been a visual difference**
20 **to the quality of the yarn used to weave it.**
21 Q. Is a change to a substrate something that
22 can be seen with the naked eye?
23 **A. Sometimes.**
24 Q. And when it's not, what kind of testing,
25 if any, can be performed to see if the substrate is

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1 DIDUCH
2 changed?
3 **A. I'm not aware of the actual tests. I**
4 **know it can be done, but I don't know the details of**
5 **the tests.**
6 Q. How do you know it can be done?
7 **A. Because it's not unusual to send textiles**
8 **out for testing which includes studying the yarn,**
9 **the weight, the composition.**
10 Q. Has Hickey Freeman ever done that before?
11 **A. Not that test.**
12 Q. Did Hickey Freeman communicate the
13 concept that the interlining had changed to anybody
14 at Chargeurs? And by Chargeurs, I mean, LP, Inc.,
15 Lainière de Picardie, Wujiang, any of the Chargeurs
16 defendants.
17 **A. I'm not aware of any communication.**
18 Q. Was any other testing -- strike that.
19 Was any testing done to determine if the
20 resin had changed?
21 **MR. D'ANGELO:** And I'll instruct you,
22 Mr. Diduch, to exclude from your answer anything
23 that Hickey Freeman may or may not be doing in the
24 context of this litigation in connection with
25 counsel.

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1 DIDUCH
2 **THE WITNESS:** No.
3 **BY MS. MORGAN:**
4 Q. Is it possible to have a third party test
5 whether resin has changed?
6 **A. Yes.**
7 Q. And has Hickey Freeman ever -- I don't
8 want to know about the context of this litigation,
9 but has Hickey Freeman other than whether they may
10 or may not have done that for this litigation
11 conducted that test?
12 **A. Not to my knowledge.**
13 Q. Have they ever hired a third party to
14 conduct that test?
15 **MR. D'ANGELO:** Same instruction, Mr. Diduch.
16 **THE WITNESS:** Not to my knowledge.
17 **BY MS. MORGAN:**
18 Q. Do you know if that testing were to be
19 performed, roughly how much it costs?
20 **A. I don't know.**
21 Q. How do you know that that testing can be
22 performed?
23 **A. I was first told about it by Vera many**
24 **years ago.**
25 Q. What did she tell you about it?

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1 DIDUCH
2 **A. That there were ways of looking at it**
3 **under a microscope or under magnification to look at**
4 **the dot, that there are things you could see.**
5 **Bob Tomlinson used to talk about it frequently.**
6 Q. Did you look at the -- any interlining in
7 the investigation after February 2017 with a
8 microscope?
9 **A. No.**
10 Q. And what did Bob Tomlinson used to
11 describe to you concerning resin testing?
12 **A. He would -- he talked about the fact that**
13 **there were labs that could look at the resins and**
14 **analyze dot formation and the size and the weight of**
15 **the dot and look at properties of the dot to see if**
16 **it was subject to delamination or other things. He**
17 **described a new product that they had developed that**
18 **was proprietary and how it was less susceptible to**
19 **things like delamination and strikeback.**
20 Q. Did you -- did anybody from Hickey Freeman
21 discuss with Bob Tomlinson the perceived defective
22 interlining?
23 **A. No.**
24 Q. When did you have these conversations
25 about the -- what labs could test with Bob Tomlinson?

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1 DIDUCH
2 **A. Fifteen years ago, ten years ago.**
3 Q. And at that time, do you know who
4 Bob Tomlinson was employed by, if anyone?
5 **A. I thought it was Chargeurs.**
6 Q. Is that an assumption?
7 **A. If he was not employed by Chargeurs, he**
8 **was a consultant or some kind of representative for**
9 **them. He was visiting us in some kind of capacity**
10 **on behalf of Chargeurs.**
11 Q. And at what company was that with when
12 you were visited?
13 **A. He came to me at UTEX and at S. Cohen.**
14 **I saw him -- I was seeing him not so much anymore,**
15 **but I used to see him frequently twice a year.**
16 Q. Was there any -- and I don't want to know
17 what you may or may not be doing for this
18 litigation, but was there any testing other than
19 that done with the allegedly defective suits?
20 **MR. D'ANGELO:** I'm sorry, can I have the
21 question read back, please.
22 (Whereupon, the record was read
23 as requested.)
24 **MR. D'ANGELO:** I object to form.
25 **THE WITNESS:** I mentioned the dry cleaning

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1 DIDUCH
2 tests that we performed. Do we have to go through
3 that again?
4 **BY MS. MORGAN:**
5 Q. Aside from the dry cleaning test.
6 A. **We did some attempts to press and**
7 **separate several times to see if we could**
8 **definitively determine that pressing and separating**
9 **could eliminate any future cause of strikeback.**
10 **That's all that comes to mind now.**
11 Q. Some suits were returned to Hickey Freeman
12 that were allegedly defective; is that correct?
13 A. **Yes.**
14 Q. When those suits were returned, did
15 Hickey Freeman perform any testing on them?
16 A. **Yes.**
17 Q. And is that the press and separate
18 several times testing?
19 A. **Yes.**
20 Q. And what was the purpose of that test?
21 A. **That was to determine whether we -- if we**
22 **separated them a few times, the strikeback would**
23 **never reoccur.**
24 Q. Who, if anybody, came up with that method?
25 A. **It was discussed between myself and Roy.**

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1 **DIDUCH**
2 **I don't remember who else would have been in on the**
3 **discussion.**
4 Q. And what were your observations after
5 conducting that testing?
6 A. **It seemed that we could get the fusible**
7 **to a point where it was no longer re-adhering, but**
8 **the appearance of the suits was not very good**
9 **anymore because we overpressed it.**
10 Q. What were the parameters of the pressing --
11 **MR. D'ANGELO:** Objection to form.
12 **BY MS. MORGAN:**
13 Q. -- at that testing?
14 A. **We were pressing with manual -- we call**
15 **them Hoffman presses. Just press them as hard as**
16 **possible. Harder than a dry cleaner would.**
17 Q. Are those hand pressing machines?
18 A. **They're -- sort of. In the sense that**
19 **what we call automatic machines have a computer**
20 **operator and they push a button and they go. These**
21 **are pressing machines that look like a clamshell**
22 **that you close the top, you press a locking**
23 **mechanism, there's a button for steam, a button for**
24 **vacuum, so they're not automated, but you don't**
25 **control the pressure.**

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1 **DIDUCH**
2 Q. And by pressing, is that with your foot
3 that you do it?
4 A. **You use a foot lever to help bring the**
5 **cover down because it's very heavy, bring it down**
6 **and another foot lever to lock it.**
7 Q. Were those Hoffman presses specially
8 brought to the plant for these remedial measures
9 with the damaged suits?
10 A. **No.**
11 Q. They already existed at the plant?
12 A. **Yes.**
13 Q. And were these same Hoffman presses used
14 in the manufacturing of the allegedly defective
15 suits?
16 A. **Yes.**
17 Q. And can you describe to me how they were
18 overpressed?
19 A. **Impressions of seam allowances become**
20 **visible. A certain amount of shine develops from**
21 **overpressing. They looked a bit scorched and they**
22 **didn't have a fresh, round appearance anymore. They**
23 **just looked overpressed.**
24 Q. And is the temperature and steam that
25 were used during the Hoffman presses, were those

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1 **DIDUCH**
2 parameters recorded anywhere?
3 A. **No.**
4 Q. Aside from the press and separate, that
5 was three times, correct?
6 A. **We did a variety of times. We did three**
7 **times. I think we did up to five times.**
8 Q. Aside from that, was anything else done
9 on the suits that had been returned to Hickey
10 Freeman having been allegedly damaged?
11 A. **Done in what sense?**
12 Q. Any other way? Was anything else done to
13 the allegedly damaged suits other than pressing and
14 separating several times, whether it's three or
15 five?
16 **MR. D'ANGELO:** Objection to form.
17 **THE WITNESS:** Are you saying done in terms of
18 testing or anything else at all?
19 **BY MS. MORGAN:**
20 Q. Did Hickey Freeman take any other action
21 to attempt to remedy the suits?
22 A. **We took some pants which were pleated and**
23 **we dismantled the plants and converted them into**
24 **plain front pants.**
25 Q. Anything other than that?

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1 DIDUCH
2 **A. I think that was it.**
3 Q. Okay. When was the first time that a
4 garment had been returned by a customer to the
5 Hickey Freeman plant?
6 **A. Ever?**
7 Q. Related to these allegedly damaged suits.
8 **A. I don't know what date it was.**
9 Q. Do you remember roughly what month?
10 **A. I would have to guess it.**
11 **MR. D'ANGELO:** Could we go off the record for
12 a second.
13 (Whereupon, a discussion was had
14 off the record.)
15 **BY MS. MORGAN:**
16 Q. I don't want you to guess, but do you
17 remember if it was relatively soon after
18 February 2017?
19 **A. I would have to guess.**
20 Q. The testing that happened at Little Rock,
21 when was that conducted?
22 **A. At the end of April.**
23 Q. Where was it in Little Rock? Was it at
24 Dillard's facility?
25 **A. Dillard's head office is in Little Rock.**

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1 DIDUCH
2 **They sent -- they had some garments that they sent**
3 **out for dry cleaning.**
4 Q. What was the purpose of you being there?
5 **A. We sent garments that we had done our**
6 **testing of press and peel several times that we**
7 **thought that this would be an adequate remedy for**
8 **the problem. We sent them to Dillard's. They sent**
9 **them to their dry cleaner. When they came back from**
10 **the dry cleaner, they said we don't like the**
11 **appearance of these garments, we think the problem**
12 **has recurred. And I said, I don't know if I concur**
13 **with that, but I can't tell unless I'm there, so I**
14 **will fly down on Monday and we'll look at this**
15 **together.**
16 Q. When the suits were returned to Dillard's
17 having been pressed and pulled by Hickey Freeman,
18 did Dillard's agree with the appearance of them upon
19 arrival of being shipped to them?
20 **A. My recollection was that they looked**
21 **okay-ish. There were some packing rumples, but they**
22 **weren't terrible.**
23 Q. What does packing rumples mean?
24 **A. When you're shipping a garment in a box,**
25 **the box can be lying flat or upside down and those**

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1 DIDUCH
2 **things can get crinkled a little bit.**
3 Q. When you stated earlier you didn't know
4 if the suits were okay or not and you wanted to fly
5 down there, was that based on visually looking at
6 the suits through photographs or some other basis?
7 **A. They sent us photographs.**
8 Q. And when you flew down there, what was
9 your role?
10 **A. I was going to go see, as the most**
11 **technical person in the company, to go and address**
12 **this and look at it with them and determine was this**
13 **actually strikeback that was recurring because we**
14 **were still trying to work out a way that we could**
15 **repair these garments for them and they were not**
16 **satisfied with the result.**
17 Q. Were the suits that were ultimately
18 returned back to Dillard's, did Hickey Freeman dry
19 clean them before sending them to Dillard's?
20 **A. We did not dry clean them.**
21 Q. When you were on site in Little Rock, did
22 you visit physically the dry cleaners?
23 **A. Yes, I did.**
24 Q. And that's the vendor you don't recall
25 the name of; is that right?

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1 DIDUCH
2 **A. That's correct.**
3 Q. Sitting here now do you recall the name?
4 **A. No.**
5 Q. Did you actually observe the dry cleaning
6 process?
7 **A. I did not observe the dry cleaning**
8 **process. I observed the pressing process.**
9 Q. And did you have an opinion as to the
10 pressing that was done by this particular dry
11 cleaning?
12 **A. Yes.**
13 Q. What's your opinion?
14 **A. I thought it was terrible.**
15 Q. Why was it terrible?
16 **A. It was done in a way that would cause**
17 **rumples and wrinkles to the garment and remove the**
18 **shape that we built into it.**
19 Q. And could you tell that by -- did you
20 watch as the dry cleaner actually pressed suits?
21 **A. Yes.**
22 Q. And could you tell that it was terrible
23 by just looking and it being performed?
24 **A. Yes.**
25 Q. And did you say something to the person

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1 DIDUCH
2 or persons that were dry cleaning it?
3 A. No.
4 Q. Did you record your observations in any
5 way?
6 A. I recorded them pressing.
7 Q. With your phone?
8 A. Yes.
9 Q. Do you still have that video?
10 A. Yes.
11 MS. MORGAN: Frank, we call for the production
12 of that video.
13 MR. D'ANGELO: Okay. Put it in writing.
14 We'll take it under advisement.
15 MR. NIEDERER: We join in that request.
16 MR. D'ANGELO: Same response.
17 BY MS. MORGAN:
18 Q. Did the dry cleaners know that you were
19 from Hickey Freeman?
20 A. Yes.
21 Q. And did you have any discussions with
22 them when you were observing the pressing?
23 A. No.
24 Q. How many people were pressing the suits?
25 A. There was one person who was pressing

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1 DIDUCH
2 these suits.
3 Q. Do you remember that person's name?
4 A. No.
5 Q. Even the first name?
6 A. No, I didn't get it.
7 Q. While you were at this dry cleaner, did
8 you see any suits that had been sent from Hickey
9 Freeman prior to this dry cleaner pressing them?
10 A. While I was there?
11 Q. Yes.
12 A. No.
13 Q. Did you ever see any of those suits in
14 person?
15 A. So while I was -- I had brought suits
16 with me to be cleaned and pressed.
17 Q. Okay. Was it Dillard's that contracted
18 with this dry cleaners?
19 MR. D'ANGELO: Let her ask the question.
20 THE WITNESS: I'm sorry, you're done?
21 BY MS. MORGAN:
22 Q. Yeah.
23 A. Okay. Dillard's had originally sent the
24 garments out to that cleaner. They said this is the
25 best cleaner in town, so we sent out these garments

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1 DIDUCH
2 that you allegedly fixed and we sent it to the
3 cleaner and it came back and we didn't like the
4 appearance.
5 Q. So then you flew down to Little Rock with
6 your own sample of suits and had that dry cleaner
7 press them?
8 A. That's correct.
9 Q. Did you take any photographs or
10 recordings of the suits as they looked at
11 Hickey Freeman's plant?
12 A. I don't think so.
13 Q. And then you packaged these suits and
14 took them on the plane with you?
15 A. That's correct.
16 Q. How many suits?
17 A. I believe it was four.
18 Q. Did the dry cleaners press all four suits?
19 A. Yes.
20 Q. Where are those suits today?
21 A. I'm not sure.
22 Q. What happened after the dry cleaners?
23 Did you take back possession of those four suits?
24 A. Yes.
25 Q. Did you have any discussion with

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1 DIDUCH
2 Dillard's after that?
3 A. Yes.
4 Q. What was that discussion?
5 A. I was still in Little Rock. I was about
6 to board a flight back to Rochester. I called Alan
7 in Budapest and got him on a conference call with
8 the buyer of Dillard's. Alan was still trying to
9 get them to take the suits or find some way that we
10 could accommodate them, and Charles, the buyer, told
11 him flat out, I just don't want these things, I
12 don't care what you do, I don't want them.
13 Q. Did -- was there any other -- anything
14 else you wanted to add about that conversation?
15 A. I mean, that was the gist of the
16 conversation.
17 Q. I couldn't tell if you were done.
18 A. Yeah.
19 Q. Did you ever tell Dillard's, I went to
20 the dry cleaner, I saw him do this terrible pressing
21 job. Did you describe those observations to
22 Dillard's?
23 A. Yes.
24 Q. Who at Dillard's?
25 A. Charles Hufford.

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1 **DIDUCH**
2 Q. And what did you say to Charles Hufford?
3 A. **I told him in probably colorful language**
4 **that they didn't know how to press. I may have also**
5 **sent him the video.**
6 Q. And what was Charles' response, if
7 anything?
8 A. **Just generally he wasn't interested. He**
9 **didn't want the suits.**
10 Q. And did you take those four suits back
11 with you when you flew back to Rochester?
12 A. **We got them -- I'm now thinking did I**
13 **ship them or bring them? I'm almost positive I**
14 **carried them back to Rochester with me.**
15 Q. Did Hickey Freeman dry clean any of the
16 allegedly damaged suits with any other vendor other
17 than the one in Little Rock?
18 A. **Yes, we discussed the two dry cleaners in**
19 **Rochester.**
20 Q. And did those look okay after they were
21 dry cleaned?
22 A. **They looked all right.**
23 Q. How many suits were dry cleaned at the
24 two vendors in Rochester?
25 A. **Two at each.**

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1 **DIDUCH**
2 Q. Where are those four suits, if you know,
3 today?
4 A. **I assume we still have them.**
5 Q. Was the work that was done at those two
6 vendors in Rochester, dry cleaning vendors, was that
7 recorded in any way?
8 A. **In what sense?**
9 Q. Video or maybe you wrote some notes about
10 the job that was done? Anything of that nature.
11 A. **There may have been an e-mail about it.**
12 **There may have been a photo taken. I don't recall.**
13 **MS. MORGAN:** We'll put our writing in a
14 written request, but -- our demand in a written
15 request, but we'll call for that as well.
16 **MR. D'ANGELO:** For the production of what?
17 **MS. MORGAN:** Of any e-mail or photo
18 referencing the dry cleaning that was done at the
19 two vendors in Rochester and for any sample of those
20 four suits.
21 **MR. D'ANGELO:** To the extent they exist or the
22 suits can even be ascertained, we'll consider the
23 request if you put it in writing.
24 **MR. NIEDERER:** I think the suits are part of
25 the requested protocol for production.

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1 **DIDUCH**
2 **MR. D'ANGELO:** I indicated last night via
3 e-mail it wasn't clear what was being asked as part
4 of that item in the production, and you had
5 indicated you wanted to discuss it today, so we can
6 discuss that offline.
7 **MR. NIEDERER:** Okay. That's fine.
8 **MR. D'ANGELO:** It was not clear to me what was
9 being asked for.
10 **MR. NIEDERER:** All right.
11 **BY MS. MORGAN:**
12 Q. Did any other -- at any other time was
13 any other dry cleaner -- strike that.
14 Did any other dry cleaner perform any
15 work on any allegedly damaged suits other than the
16 two in Rochester and the one in Little Rock that you
17 know of?
18 A. **Not to my knowledge.**
19 Q. And when you had the four suits dry
20 cleaned at the two different branches in Rochester,
21 was that pressing and dry cleaning or just pressing?
22 A. **Dry cleaning and pressing.**
23 Q. In the fall of 2016, did Hickey Freeman
24 have any problem with the 630?
25 A. **I observed an occasional visible amount**

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1 **DIDUCH**
2 **of strikeback around the armhole of the coat.**
3 Q. When you say coat, you mean jacket,
4 correct?
5 A. **Yes.**
6 Q. Jacket to a suit, correct?
7 A. **They're used interchangeably.**
8 Q. Just for the record.
9 Let me ask you a different question.
10 Prior to February 2017, had Hickey Freeman
11 experienced any problems with the 630? Earlier I
12 said the fall of 2016, but it might have been before
13 that.
14 **MR. D'ANGELO:** Just note my objection to form.
15 **THE WITNESS:** It was in the fall of that
16 period that I noticed a handful of garments.
17 **BY MS. MORGAN:**
18 Q. And what did you notice in the handful of
19 garments?
20 A. **There was a visible amount of strikeback**
21 **around the armhole.**
22 Q. Anywhere else?
23 A. **No.**
24 Q. And how did you discover those garments?
25 A. **I saw them hanging on the production line.**

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1 **DIDUCH**
2 Q. Was it through one of your walkthroughs
3 on the floor?
4 A. Yes.
5 Q. And did Sal ever notice those armhole --
6 A. I don't remember --
7 Q. -- items?
8 A. -- if he had seen it as well.
9 **MR. D'ANGELO:** Just let her get the question
10 out before you respond.
11 **BY MS. MORGAN:**
12 Q. Go ahead.
13 A. I don't remember if he mentioned it
14 independently or if I brought it up with him. It
15 was just a thing that we had noticed, and so next
16 time I'm talking to Barry, I want to bring it up
17 with him.
18 Q. So can you describe more what you
19 observed. You said the armhole area. What did the
20 armhole area look like?
21 A. This portion of the cloth (indicating) --
22 Q. If you can also describe with words.
23 A. Yeah, I'm trying to -- so roughly two to
24 three inches from the armhole from about two or
25 three inches down from the shoulder seam, down

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1 **DIDUCH**
2 several inches down the front. There is a portion
3 of the cloth that was sticking to the canvas
4 underneath and it was visible from the outside.
5 **MR. D'ANGELO:** Let the record reflect the
6 witness is gesturing with his fingers approximately
7 two to three inches apart from the top of his
8 shoulder down to just above the breast pocket on the
9 left side of his armhole -- left armhole.
10 **BY MS. MORGAN:**
11 Q. And that was -- it looked, in layman's
12 terms, it was wrinkled and what else?
13 A. It was very obvious where it was stuck
14 because the rest of the cloth was free to move
15 around, and where it was stuck was visibly obvious
16 that it was stuck.
17 Q. What season of suits was that noticed in?
18 A. It could have been late fall or early
19 spring.
20 Q. And roughly how many suits did you notice
21 that in?
22 A. I'd say five or six.
23 Q. And was that through the same walkthrough
24 you found five or six?
25 A. No. Over -- I don't remember the time

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1 **DIDUCH**
2 frame. They weren't all at once. I would walk
3 through and notice a garment, and then a week or two
4 or a month later notice another garment.
5 Q. Do you remember from when you noticed the
6 first garment to the last the rough time span of
7 that?
8 A. No.
9 Q. Can you approximate like two months or
10 more or maybe a month and a half?
11 **MR. D'ANGELO:** Objection.
12 **THE WITNESS:** I don't have a good enough
13 memory of it.
14 **BY MS. MORGAN:**
15 Q. Was any testing done by Hickey Freeman to
16 determine the cause of this armhole damage?
17 A. No.
18 Q. Why is that?
19 A. We couldn't replicate the problem.
20 Q. So replicating the problem was tried?
21 A. We didn't have other garments that struck
22 back. In order to test for something, you need to
23 be able to reproduce the problem.
24 Q. Was some kind of endeavor performed to
25 determine if the same manufacturing would lead to

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1 **DIDUCH**
2 the strikeback in the armhole area?
3 **MR. D'ANGELO:** Objection.
4 **THE WITNESS:** Say that again.
5 **MS. MORGAN:** Can you repeat the question.
6 (Whereupon, the record was read
7 as requested.)
8 **THE WITNESS:** Well, inasmuch as they were
9 being manufactured the same way and some of them
10 struck back and some of them didn't, there was
11 really little we could do until the next time that
12 we had an example.
13 **BY MS. MORGAN:**
14 Q. An example of --
15 A. Of strikeback.
16 Q. So when you had -- after you observed the
17 first damage in the armhole area and then you came
18 upon the second suit, did you still have that first
19 suit?
20 A. No.
21 Q. After you saw the second suit, did you
22 preserve the second suit?
23 A. No.
24 Q. Was there ever a time when you had two
25 damaged suits --

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1 DIDUCH
2 A. No.
3 Q. -- at the armhole area?
4 A. No.
5 Q. Why do you need two damaged suits to do
6 testing?
7 A. There are a lot of variables involved.
8 If you want to try to determine if it's necessarily
9 the fusible that's bad or if it's a fabric issue,
10 you need two different finishes of fabric. You may
11 want different styles. In order to eliminate
12 variables, otherwise if you're just looking at it,
13 it could be any number of things.
14 Q. So did Hickey Freeman do any testing to
15 determine the cause of that armhole damage?
16 MR. D'ANGELO: Objection, asked and answered.
17 THE WITNESS: No.
18 BY MS. MORGAN:
19 Q. And what eventually -- strike that.
20 Did the armhole damage eventually stop --
21 A. Yes.
22 Q. -- appearing?
23 A. Yes.
24 Q. Did you communicate this damage to
25 Barry Diamond?

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1 DIDUCH
2 A. Yes.
3 Q. And what did you say to him?
4 A. I said to him we've had intermittent
5 issues with it. I think we need to look at it.
6 Q. How did you tell him this?
7 A. In an e-mail.
8 Q. And what was Mr. Diamond's response, if
9 any?
10 A. That was when he responded with the
11 different parameters from his data sheet.
12 Q. Did he respond with anything else?
13 A. He asked if we had been doing anything
14 differently. He may have asked if I wanted him to
15 come.
16 Q. And did he say anything else?
17 A. I don't remember.
18 Q. Did you accept his invitation to come?
19 A. No.
20 Q. Why not?
21 A. I had nothing to show him.
22 Q. At that point, you didn't have one
23 damaged suit?
24 A. No.
25 Q. Did you throw them away?

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1 DIDUCH
2 A. No. They were just -- when we have
3 something like that in production, we peel the issue
4 and let it pass. We're fulfilling orders.
5 Q. Did those suits ever get returned that
6 had the armhole damage?
7 A. No.
8 Q. Did Hickey Freeman change any of its
9 manufacturing protocols after having seen the
10 armhole damaged suits?
11 A. No.
12 Q. What about in its quality control
13 procedures?
14 A. No.
15 Q. What about was there any testing done
16 with the 630 interlining following seeing the
17 armhole damaged suits?
18 MR. D'ANGELO: Objection.
19 THE WITNESS: No.
20 MR. D'ANGELO: Just note my objection to form.
21 Jeffery, if you could give me a chance to object
22 before you answer.
23 THE WITNESS: Sorry.
24 BY MS. MORGAN:
25 Q. Did those suits use the 630?

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1 DIDUCH
2 A. Yes.
3 Q. And how do you know?
4 A. I was told.
5 Q. By who?
6 A. Probably Donny Wray.
7 Q. Who's Donny Wray?
8 A. He is the person who assigns that
9 interlining.
10 Q. She's an employee of Hickey Freeman?
11 A. He is an employee of Hickey Freeman.
12 Q. Oh, excuse me.
13 Do you remember Donny Wray telling you
14 that or is that an assumption?
15 A. That's -- I asked Donny about it and he
16 said at that point, he didn't tell me 630. He said
17 that's the skin fusing from Veratex.
18 Q. And at that point, was that the only
19 fusible that Hickey Freeman was purchasing from
20 Veratex?
21 A. I don't know. Let me rephrase. That was
22 the only woven fusible we were purchasing from
23 Veratex I think. It was the only skin fusing we
24 were purchasing from Veratex.
25 Q. And did you undertake any other actions

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1 DIDUCH
2 to determine if it was the 630 in those suits?
3 **A. No.**
4 Q. Aside from the testing that was done at
5 Hickey Freeman's plant, the dry cleaner vendors in
6 Rochester, the dry cleaning vendor in Little Rock
7 and any testing that Fran Natale may or may not have
8 done, are you aware of any other testing that's been
9 performed concerning the allegedly damaged suits?
10 And I don't want to know about anything
11 Hickey Freeman's doing or may not be doing for this
12 litigation.
13 **MR. D'ANGELO:** Note my objection to form.
14 Objection to the characterization of dry cleaning,
15 pressing that's being testing, and I'll instruct the
16 witness to omit from his answer anything that's --
17 anything that may or may not have been done in
18 connection with this litigation in conjunction with
19 counsel.
20 **THE WITNESS:** No.
21 **BY MS. MORGAN:**
22 Q. Did Samuelsohn perform any testing for
23 Hickey Freeman?
24 **MR. D'ANGELO:** Same instruction and objection.
25 **THE WITNESS:** No.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. Did any of the defendants in this
4 litigation make any representations as to the
5 interlining to -- as to the 630 or the 3069 to
6 Hickey Freeman?
7 **MR. D'ANGELO:** Note my objection to this
8 question. This witness has not been designated to
9 speak to this issue.
10 **BY MS. MORGAN:**
11 Q. If you personally know.
12 **A. They haven't said anything to me.**
13 Q. Aside from the e-mails you referenced
14 concerning the communications with Barry Diamond
15 about the armhole damaged suits, did you communicate
16 in any other way with Veratex concerning that
17 matter?
18 **MR. D'ANGELO:** Objection to form. The
19 question's vague.
20 **BY MS. MORGAN:**
21 Q. Did you call Barry Diamond or anybody
22 else from Veratex to discuss it?
23 **MR. D'ANGELO:** Objection, form, vague.
24 Objection as to time frame.
25 **THE WITNESS:** Can you repeat or rephrase.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. In addition to e-mailing Barry about the
4 armhole damage that you saw in the suits, did you
5 have any other communications with Barry Diamond or
6 anybody else from Veratex?
7 **MR. D'ANGELO:** Objection to form, vague.
8 **THE WITNESS:** I may have had a phone call with
9 Barry.
10 **BY MS. MORGAN:**
11 Q. And do you remember the sum and substance
12 of that phone conversation?
13 **A. No.**
14 Q. Do you remember when that was?
15 **A. No.**
16 Q. Was it in 2016?
17 **A. Probably.**
18 Q. Is that a guess?
19 **A. It's a guess.**
20 Q. Aside from -- strike that.
21 To your knowledge, what are the potential
22 causes of strikeback?
23 **A. The amount of resin permeates through the**
24 **substrate.**
25 Q. Aside from potentially defective

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1 DIDUCH
2 interlining, do you think there can be any other
3 cause of strikeback?
4 **MR. D'ANGELO:** Objection to form.
5 **THE WITNESS:** The only time I'd ever seen it
6 before was when two pieces of interlining were put
7 through a fusing machine face-to-face to each other.
8 **BY MS. MORGAN:**
9 Q. Aside from what you've seen, maybe you
10 have some knowledge about what could cause
11 strikeback through your education or some other
12 source, but do you have any understanding as to
13 whether or not strikeback can be caused by anything
14 other than defective interlining?
15 **MR. D'ANGELO:** Objection to form.
16 **THE WITNESS:** I think it could be done with
17 the incorrect pressing parameters or fusing
18 parameters.
19 **BY MS. MORGAN:**
20 Q. Anything else?
21 **A. No.**
22 Q. And do you think incorrect pressing or
23 incorrect fusing parameters led to the loss that
24 Hickey Freeman sustained that's the subject of this
25 complaint?

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1 DIDUCH
2 **MR. D'ANGELO:** Objection.
3 **THE WITNESS:** I do not.
4 **MR. NIEDERER:** Can you read back that last
5 question. I got the answer. Just the question.
6 (Whereupon, the record was read
7 as requested.)
8 **BY MS. MORGAN:**
9 Q. Were you present -- strike that.
10 Was there a time when Barry Diamond and
11 Fran Natale came to the Hickey Freeman plant?
12 **A. They came at that moment when we called**
13 **them and they were in Europe and they came after**
14 **that. Barry may have come on another occasion.**
15 Q. In the time that they came after being in
16 Europe, was that approximately when?
17 **A. That was the end of February.**
18 Q. And when they came that day, was it just
19 one day at the plant?
20 **A. Yeah, I think so.**
21 Q. And were you with them for the duration
22 of their visit?
23 **A. If not all of it, then nearly all of it.**
24 Q. What did you do with them during that day?
25 **A. We looked at the fusing machines. We did**

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1 **DIDUCH**
2 **some testing of the temperature and the general**
3 **condition of the machines. We did some testing like**
4 **I had done with the competitor's product on the**
5 **underpressing machines and we went into the shipping**
6 **area.**
7 Q. The testing that you did with a
8 competitor's product, which competitor was that?
9 **A. It would have been Freudenberg.**
10 Q. What did you go into the shipping area
11 for?
12 **A. We went to go see if we could find some**
13 **garments that were exhibiting strikeback.**
14 Q. And did you find any?
15 **A. We found some garments that were struck**
16 **back, but not showing the bubbling.**
17 Q. How did they look if they were not
18 bubbling to indicate strikeback?
19 **A. They didn't look bad. They looked**
20 **normal. I found there was strikeback because it was**
21 **a similar cloth that we had looked at with the Ascot**
22 **Shop.**
23 Q. And what kind of cloth was that?
24 **A. It was a wool cloth.**
25 Q. So did you believe that the suit had

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1 DIDUCH
2 strikeback just because it was a wool -- included a
3 wool cloth?
4 **A. I was able to reach and separate the**
5 **layers and show that they were sticking together.**
6 **At that point, Barry and Fran acknowledged that**
7 **there was strikeback and there was a problem.**
8 Q. How did they do that?
9 **A. They said, yes, this is strikeback; yes,**
10 **this is a problem; and Fran said, well, this is what**
11 **we have insurance for.**
12 Q. Did Barry say that?
13 **A. Fran said that.**
14 Q. Did Barry say, yes, this is strikeback?
15 **A. They both acknowledged that there was**
16 **strikeback.**
17 Q. Verbally?
18 **A. Yes.**
19 Q. And as to the insurance comment, was that
20 exclusively something Fran said?
21 **A. Yes.**
22 Q. When did Barry and Fran make the comment
23 that, yes, this is strikeback effectively?
24 **A. While we were in shipping.**
25 Q. When you pulled the suit that looked like

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1 DIDUCH
2 the Ascot fabric?
3 **A. That's correct.**
4 Q. And did you observe them pulling it
5 themselves?
6 **A. I don't recall.**
7 Q. And did you respond at all to that comment?
8 **A. I would have responded in the affirmative.**
9 Q. Would the testing that was done with the
10 Freudenberg, was that on the floor?
11 **A. Yes.**
12 Q. And when you were conducting -- were you
13 the one conducting that testing?
14 **A. Yes.**
15 Q. And were both Barry and Fran watching you
16 do that testing?
17 **A. Yes.**
18 Q. And did they have any impressions that
19 you noticed after the testing was done?
20 **MR. NIEDERER:** Objection to form.
21 **MR. D'ANGELO:** Can I get the question read
22 back, please.
23 **MS. MORGAN:** I can rephrase it.
24 **BY MS. MORGAN:**
25 Q. After the testing had been done with the

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1 DIDUCH
2 Freudenberg, did Barry and Fran say anything about
3 the result of that test?
4 **A. They acknowledged there was visibly a**
5 **difference between the two.**
6 Q. Do you remember what they said
7 specifically?
8 **A. I don't remember the words that were used.**
9 Q. And is it your recollection that Fran and
10 Barry both said words to that effect?
11 **A. Yes.**
12 Q. At that point, did either Fran or Barry
13 mention anything about strikeback?
14 **A. The fact that there was some present.**
15 Q. At the -- after the testing with the
16 competitor?
17 **A. When we were testing with the competitor,**
18 **we had one piece of the competitor's and one piece**
19 **of Chargeurs that we would lay side by side on each**
20 **machine so that the conditions would be identical.**
21 Q. And do you recall what they said with
22 regard to strikeback?
23 **A. I don't remember the words that were**
24 **used, no.**
25 Q. But is it your understanding that both

Page 206

1 DIDUCH
2 Fran and Barry indicated that there was strikeback?
3 **A. They both acknowledged the presence of**
4 **strikeback.**
5 Q. Verbally?
6 **A. Yes.**
7 Q. And aside from the shipping area and the
8 time of the testing with the competitor, was there
9 any other point in time that day that Barry or Fran
10 made any comment concerning strikeback?
11 **A. We would have gone back to my office to**
12 **discuss our next steps, and they asked for all of**
13 **the rolls to be packed up and to be sent back to us.**
14 **They said they would credit us the value of the**
15 **rolls and that they would do some of their own**
16 **testing.**
17 Q. Concerning the crediting of the rolls, do
18 you recall who gave you that assertion?
19 **A. Barry.**
20 Q. Did Fran make any comment like that?
21 **A. We didn't buy directly from Fran, so any**
22 **talk of buying or shipping or anything was done with**
23 **Barry.**
24 **MR. NIEDERER:** Yeah, and I don't want to cut
25 you off, just note my objection to the question.

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. The meeting in your office where you
4 mentioned that they described further testing, did
5 Barry Diamond describe any testing that he or
6 Veratex would perform?
7 **MR. NIEDERER:** Objection to form.
8 **THE WITNESS:** I don't recall.
9 **BY MS. MORGAN:**
10 Q. And what about with Fran?
11 **A. Fran didn't describe the testing he was**
12 **going to do, but he said he was going to do testing.**
13 Q. In the --
14 **A. I now remember that we did a sample of**
15 **every single roll, and one of the two of them left**
16 **with those samples. And by sample I mean a piece of**
17 **fabric and a piece of fusible and a piece of**
18 **pocketing which went through the fusible -- fusing**
19 **machine, was then put in an underpressing machine**
20 **and it had strikeback, and one of the two of them**
21 **left with all of those samples.**
22 Q. In the -- when you say sample of every
23 roll, every roll of what?
24 **A. Of 630.**
25 Q. Including that control one?

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1 DIDUCH
2 **A. No.**
3 Q. So was it every roll of 630 that had the
4 630 affixed to the roll inside?
5 **A. That's correct.**
6 Q. When Barry was there that day, did you
7 mention the potential of the control interlining
8 maybe not being a 630?
9 **A. I don't think I mentioned it at all**
10 **because at that point, I didn't believe it was 630.**
11 **I thought it was some random other thing that was**
12 **misabeled.**
13 Q. Do you remember how many rolls that
14 samples were taken from? An approximation is okay
15 as well.
16 **A. Twenty-ish.**
17 Q. Twenty?
18 **A. Yeah. I think it was, like, sixteen**
19 **black and four white or something to that effect.**
20 Q. And the testing that was done -- I may
21 have asked you this before, but the testing that was
22 done when Fran and Barry were there that day, the
23 parameters of that were not recorded; is that
24 correct?
25 **MR. D'ANGELO:** Objection, vague.

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1 DIDUCH
2 **THE WITNESS:** They were on current production
3 parameters.
4 **BY MS. MORGAN:**
5 Q. That was after February 2017 when you
6 noticed the strikeback, correct?
7 **A. Yes. Yes.**
8 Q. And did they --
9 **MR. D'ANGELO:** Objection to form.
10 **BY MS. MORGAN:**
11 Q. Did the parameters change at all from
12 prior to that incident?
13 **MR. D'ANGELO:** Objection.
14 **BY MS. MORGAN:**
15 Q. For example, the pressure or the
16 temperature settings that the machines were
17 regularly set at?
18 **MR. D'ANGELO:** What time are you asking about?
19 It's not clear what time you're asking about.
20 **BY MS. MORGAN:**
21 Q. I'm asking about for after February 2017
22 if the parameters that were maintained on the floor
23 changed?
24 **MR. D'ANGELO:** But you understand Barry and
25 Fran visited in February. You're asking about their

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1 DIDUCH
2 visit or about --
3 **BY MS. MORGAN:**
4 Q. No. I'm asking about after the alleged
5 strikeback was discovered, I think you said it was
6 early February 2017, after that discovery point,
7 were the parameters that were on the production
8 floor changed at all?
9 **A. No. Until they came.**
10 Q. And when they came, how were they changed?
11 **A. Barry wanted to try changing some of the**
12 **parameters, dwell time, temperature, so on, I don't**
13 **remember exactly what he tried, but they were reset**
14 **to very similar to previous. There may have been a**
15 **three-degree change in something. I don't recall.**
16 Q. Set manually?
17 **A. Yes.**
18 Q. By whom?
19 **A. We had the mechanics with us at one point.**
20 Q. And did the alterations in the parameters
21 come from Barry's suggestions?
22 **A. Yes.**
23 Q. And do you recall what those were?
24 **A. All I remember is that we tried altering**
25 **the ratio of heat from the top to the bottom. They**

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1 **DIDUCH**
2 **were fairly similar I think, and he said what if we**
3 **try reducing the top a whole lot and increasing the**
4 **bottom a whole lot and see what happens. Other than**
5 **that, I don't remember.**
6 Q. And did you, in fact, do that?
7 **A. Yes.**
8 Q. And was there any difference?
9 **A. It wasn't something that we needed to**
10 **continue. There may have been a different, but it**
11 **wasn't something that we said, let's continue with**
12 **this.**
13 Q. Because the difference wasn't material?
14 **A. It didn't help anything. It didn't**
15 **change anything.**
16 Q. Aside from the one alteration in the
17 parameter as per Barry's suggestion, were there any
18 other changes on that day?
19 **A. I don't remember.**
20 **MR. D'ANGELO:** Can we go off?
21 (Whereupon, a short break was
22 taken.)
23 **BY MS. MORGAN:**
24 Q. Mr. Diduch, do you understand that you're
25 still under oath?

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1 DIDUCH
2 **A. Yes.**
3 Q. When you previously testified about the
4 manipulation of the temperature at the site visit
5 day with Barry Diamond and Fran Natale, you
6 referenced roughly three degrees. Do you recall
7 that?
8 **A. Yes.**
9 Q. And that was a three-degree change with
10 what?
11 **A. I'm not sure I follow you.**
12 Q. Does that mean that you increased a
13 certain machine with the temperature of three
14 degrees and, if so, what machine?
15 **A. The fusing machine might have been**
16 **changed, and I don't remember which. Just that**
17 **number sticks out in my head.**
18 Q. Oh, the three degrees?
19 **A. Yes.**
20 Q. You also previously testified that
21 Mr. Diamond suggested turning the temperature way up
22 or something to that effect. Would three degrees do
23 that?
24 **A. No.**
25 Q. So was it maybe a different number that

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1 DIDUCH
2 you don't recall?
3 **A. Three degrees may be what we left it at**
4 **at the end of it. When he said let's turn it way**
5 **up, it would be more like a ten-degree spread**
6 **between the top and the bottom.**
7 Q. After you were done conducting the
8 testing on the floor with Barry Diamond and
9 Fran Natale, did you return the machines to the
10 prior settings from before they arrived?
11 **A. They were either returned to the prior**
12 **settings or there was maybe a three-degree**
13 **difference between what they were before and what**
14 **they ended up at.**
15 Q. Is there any reason why they would not
16 have been changed to exactly what they were before?
17 **A. I don't recall. It's possible at that**
18 **point. Because we had changed interlinings, there**
19 **may have been a little change.**
20 Q. Oh, you mean after you started using --
21 **A. BVM40, sorry.**
22 Q. Yes, I was thinking about the
23 competitor's name. I know that's the number, but
24 what's -- the Freudenberg?
25 **A. Freudenberg.**

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1 **DIDUCH**
2 Q. Did the use of Freudenberg require you to
3 change your machines by three degrees?
4 **MR. D'ANGELO: Objection.**
5 **THE WITNESS: It might have.**
6 **BY MS. MORGAN:**
7 Q. You have no memory of whether it did or
8 not?
9 **A. No.**
10 Q. Do you know the -- do you know the
11 recommended temperature in the, you know, the
12 parameters of the data sheet -- let me start over
13 with that.
14 Does the Freudenberg that you use have a
15 data sheet?
16 **A. Yes.**
17 Q. And do you know if the parameters in that
18 data sheet are different than the ones in the 630?
19 **A. To my memory, the parameters are very**
20 **similar to the Veratex 630 data sheet parameters.**
21 Q. What makes you think that the -- there
22 may have been a three-degree change with the use of
23 the Freudenberg?
24 **A. It's just a number that sticks in my head**
25 **for some reason, and I could be wrong.**

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1 **DIDUCH**
2 Q. Do you remember determining whether any
3 parameters needed to be changed once you started
4 using the Freudenberg?
5 **A. Because it was in such close proximity to**
6 **their visit, I can't recall whether it was relative**
7 **to Freudenberg or if it was a suggestion made by**
8 **Barry or Fran or I just don't remember.**
9 Q. And is that difference in degrees, are
10 you referring to the glue line temperature or some
11 other temperature indication?
12 **A. No. The set temperature on the fusing**
13 **machine.**
14 Q. Do you know what the set temperature on
15 the fusing machines are today?
16 **A. I believe they're 135 on top, 145 on the**
17 **bottom.**
18 Q. 145 on the bottom?
19 **A. Yes.**
20 Q. Since Hickey Freeman has been using the
21 Freudenberg after February 2017, has Hickey Freeman
22 had any problems with strikeback?
23 **A. No.**
24 Q. Has Hickey Freeman adopted a strikeback
25 test after February 2017?

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1 **DIDUCH**
2 **A. Yes.**
3 Q. And has that testing resulted in finding
4 any suits with strikeback?
5 **A. No.**
6 Q. Or any portion of the garment?
7 **A. No.**
8 Q. During the site visit with Fran and
9 Barry Diamond, you said a mechanic was present?
10 **A. Yes.**
11 Q. Was it just one?
12 **A. I don't remember.**
13 Q. Do you remember the name of any mechanic
14 that was present with Barry and Fran and yourself
15 during the site visit?
16 **A. Probably Mark Corbett would have been**
17 **there and Nick might have been there.**
18 Q. Is Nick also a mechanic?
19 **A. Yes.**
20 Q. And do you know Nick's last name?
21 **A. I'm blanking on it right now. It's gone.**
22 Q. Okay. Do you recall Mark or Nick
23 commenting that day on the status of any of the
24 machines?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. And what did -- what did either of them
3 say if you recall?
4 A. **There was some discussion about a**
5 **pressure regulator on one of the machines.**
6 Q. Which machine?
7 A. **The green machine.**
8 Q. Does it have a name?
9 A. **It's a Kannegiesser green machine.**
10 Q. There's three Kannegiessers, right?
11 A. **There are two Kannegiessers and one**
12 **Reliant.**
13 Q. That's right. And the other
14 Kannegiesser, is that also green?
15 A. **It's blue.**
16 Q. Okay. So for the green Kannegiesser,
17 what was the comment concerning it?
18 A. **I think Barry was trying to make a change**
19 **to the pressure, but he couldn't, and he thought it**
20 **was something wrong with the machine, but in**
21 **reality, we had bypassed the pressure regulator on**
22 **that machine so that it couldn't be changed. There**
23 **was some discussion about the blue machine.**
24 Q. For the green machine, did a mechanic say
25 anything about the green Kannegiesser?

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1 **DIDUCH**
2 A. **This was the -- and I don't remember**
3 **exactly what was said by whom, but there was**
4 **discussion about the pressure regulator on the green**
5 **Kannegiesser that had been bypassed.**
6 Q. And do you know when the pressure
7 regulator had been bypassed?
8 A. **I believe it was five or six years ago.**
9 Q. And does that mean that because it was
10 bypassed, that the pressure can never change on the
11 green Kannegiesser?
12 A. **That's correct.**
13 Q. And is there a constant pressure
14 measurement that it always passed?
15 A. **It's always at three bars.**
16 Q. What did Barry want to change it to?
17 A. **I don't know.**
18 Q. More pressure or less pressure?
19 A. **I don't know. I wasn't concerned because**
20 **we don't do skin fusing on that machine.**
21 Q. And the blue Kannegiesser, what were any
22 comments with regard to that?
23 A. **We discussed in modification to the**
24 **machine.**
25 Q. And who's "we"?

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1 **DIDUCH**
2 A. **Mark Corbett would have talked with, I**
3 **guess, Barry, maybe Roy was involved.**
4 Q. What was the discussion?
5 A. **There was a modification to a roller.**
6 Q. What was the modification?
7 A. **The roller that came installed in the**
8 **machine was an inflatable bladder roller. It was**
9 **found to be faulty. It was replaced three times and**
10 **then it was changed with a solid silicone roller**
11 **which is the more common type of roller found on**
12 **those machines.**
13 Q. When was it replaced with the silicone
14 roller?
15 A. **In 2012.**
16 Q. So was the discussion just about how it
17 had been replaced with a silicone one?
18 A. **That's correct.**
19 Q. Did that impact the performance of the
20 blue Kannegiesser in any way?
21 A. **It made it better.**
22 Q. How did that discussion originate?
23 A. **I think Barry was familiar with the model**
24 **machine and was discussing some of the parts with**
25 **Mark. I don't know exactly how it came up.**

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1 **DIDUCH**
2 Q. During Hickey Freeman's investigation,
3 and I don't want to know about anything Hickey
4 Freeman's done that's with -- along with this
5 litigation. Did Hickey Freeman look at the repair
6 or replacement parts that were involved in the
7 machinery? For example, here we have a blue
8 Kannegiesser that had a replacement part in 2012.
9 Did Hickey Freeman look at the other machines on the
10 floor that were used in the manufacturing process of
11 the defective suits to determine if there was a
12 recent part or a recent repair that had been done?
13 A. **I'm not aware of that.**
14 **MR. D'ANGELO:** Objection to form.
15 **BY MS. MORGAN:**
16 Q. On that day of the site visit with Barry
17 and Fran, did any mechanic state that anything was
18 wrong with any of the machines on the floor?
19 A. **I don't remember hearing anything of that**
20 **sort.**
21 Q. Has any mechanic ever reported that to you?
22 A. **That there was something wrong with the**
23 **machine?**
24 Q. On the floor, yes, that could have
25 contributed to the damaged suits.

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1 DIDUCH
2 **A. No.**
3 Q. Do you remember the name of the mechanic
4 that was laid off?
5 **A. No.**
6 Q. Was it Mark or Nick?
7 **A. No.**
8 Q. Aside from the Kannegiesser green machine
9 and the blue machine, was there any other discussion
10 about any other machines on the floor that day?
11 **A. I don't think we looked at the Reliant**
12 **machine. I don't recall.**
13 Q. You mentioned at the end of the visit
14 that there was a meeting between yourself and Barry
15 and Fran. Prior to the walkthrough on the floor,
16 was there a meeting that morning?
17 **A. We met in my office just as a matter of**
18 **course. That's the meeting point before we go into**
19 **the factory.**
20 Q. And was there any discussion at that
21 meeting?
22 **A. I'm sure there was. I don't remember what.**
23 Q. In going back to those -- the sample of
24 the 20 rolls that you believe someone took, --
25 **MR. D'ANGELO: Objection to form.**

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. -- do you recall what size sample was
4 from each roll?
5 **A. It would have been maybe four-by-six,**
6 **maybe a little larger.**
7 **MR. NIEDERER: Inches or --**
8 **THE WITNESS: Inches.**
9 **MR. NIEDERER: Usually I can't question.**
10 That's just for clarity of the record.
11 **MS. MORGAN: It's fine.**
12 **BY MS. MORGAN:**
13 Q. And aside from those four-by-six inch
14 samples of the 20 rolls, was there any other kind of
15 sample or item taken from Hickey Freeman's plant
16 that day?
17 **MR. D'ANGELO: Just note my objection. The**
18 **witness didn't testify to 20 rolls. He said it**
19 **might be anywhere from 14 to 20.**
20 **THE WITNESS: They took things. I just don't**
21 **remember what they took. They took some samples,**
22 **like a length of some fusible. I don't remember**
23 **what else they took, but I know they took some things.**
24 **BY MS. MORGAN:**
25 Q. And the Freudenberg that was used in the

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1 DIDUCH
2 testing with Barry and Fran, was that the BV40?
3 **A. BVM40.**
4 Q. BVM40, thank you.
5 Aside from the resin change that you
6 testified about, did Hickey Freeman make -- did
7 Hickey Freeman perform any testing with regards to
8 the weight of the interlining?
9 **MR. D'ANGELO: And I'll instruct the witness**
10 **to omit from his answer anything that may or may not**
11 **have been done or may be done in connection with**
12 **this litigation in conjunction with counsel.**
13 **THE WITNESS: I had attempted to do a somewhat**
14 **unscientific comparison between several products.**
15 **BY MS. MORGAN:**
16 Q. What products did you compare?
17 **A. I compared the Chargeurs with 630 with**
18 **the BVM40 and the Kufner, and I don't remember the**
19 **article number of it.**
20 Q. And any other product?
21 **A. I don't think so. I don't remember.**
22 Q. When -- and this was weight testing that
23 you did?
24 **A. That's correct.**
25 Q. When was that performed?

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1 DIDUCH
2 **A. That was right around that time of the**
3 **21st or 22nd of February.**
4 Q. And what -- how did you compare the
5 weight of those three products?
6 **A. I cut a meter square of each of them, and**
7 **we have a fairly sensitive scale in our lab and I**
8 **weighed them.**
9 Q. Do you remember what the testing resulted
10 in?
11 **A. The Chargeurs appeared lighter than the**
12 **other two. I don't remember by how much. I**
13 **reported this to Barry and he said, oh, that's**
14 **normal, there can be some variation.**
15 Q. Variation among different lines of
16 interlining?
17 **A. What he meant is the variation in the**
18 **weight of the actual -- from one roll to the next.**
19 Q. From one what?
20 **A. Roll to the next.**
21 Q. But did you compare a six -- a sample of
22 the 630 from one roll with another sample of a 630
23 from another roll?
24 **A. No.**
25 Q. So did you believe that the 630 had some

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1 DIDUCH
2 variance in weight based on a prior 630?
3 **A. The other two interlining samples were**
4 **also stated as being 34 grams, so theoretically all**
5 **three pieces should weigh the exact same. When the**
6 **Chargeurs product was lighter, Barry said, well,**
7 **they can vary.**
8 Q. And how much lighter do you recall?
9 **A. I don't. It was enough to be**
10 **statistically significant, but maybe not enough**
11 **really to be concerned about.**
12 Q. Did you record that weight -- those
13 weight measurements anywhere?
14 **A. I don't think so.**
15 Q. When you discussed the weight difference
16 with Barry Diamond, when he said there can be some
17 variance, did he give any more detail to that?
18 **A. No.**
19 Q. And aside from the testing you did in the
20 lab, did you concern yourself with anything else
21 regarding the weight of the 630?
22 **A. Not the weight, per se.**
23 Q. Can you elaborate?
24 **A. I was observing it trying to understand**
25 **why it was so prone to strikeback. I made some**

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1 **DIDUCH**
2 **casual observations about the kind of weave that**
3 **could have contributed to it.**
4 Q. And what do you mean by "the kind of
5 weave"?
6 **A. The 630 is a plain weave, meaning it's a**
7 **one-by-one -- I'm not sure how to describe that in a**
8 **layman's term. One thread over, one thread under,**
9 **one thread over, one thread under. It's a very fine**
10 **yarn and a relatively loose weave such that from**
11 **what's considered the right-side up where there's no**
12 **resin, you could see the resin dot through, and I**
13 **thought if I can see through this, if it's that thin**
14 **and I can see those big dots through it, it may be**
15 **prone to those dots seeping through.**
16 Q. Did you think that there was a change in
17 the nature of the weave?
18 **A. I didn't know. It seemed that there had**
19 **been a change of some sort because we did not change**
20 **anything in our manufacturing parameters or product,**
21 **and all of a sudden we had problems and so I was**
22 **trying to figure out what had changed or -- I didn't**
23 **know what to look at.**
24 Q. Other than the change in the weave that
25 you may have remarked on, is there anything else

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1 DIDUCH
2 about the physical aspect of the 630 that you
3 considered as a potential change or factor relating
4 to the interlining?
5 **MR. D'ANGELO:** Objection to form.
6 **THE WITNESS:** I now see that the resin was
7 very different from one to the next. My
8 understanding is that the resin application system
9 to get a specific pattern is different from the
10 system to apply resin for a random scatter. Other
11 than that, I just -- I had noticed that the type of
12 yarn used for the 630 is a very, very fine yarn,
13 whereas it's more common to use a texturized yarn
14 which has slightly more volume at the same weight.
15 **BY MS. MORGAN:**
16 Q. How do you know that the application of
17 the resin is different concerning the patterns?
18 **A. I had read that somewhere.**
19 Q. Do you remember where?
20 **A. No.**
21 Q. And the BVM40, does that have -- what
22 kind of characteristic yarn does it have, if any?
23 **A. It has a texturized yarn. It also has**
24 **a -- I think it's a broken twill weave. It's not a**
25 **plain weave.**

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1 **DIDUCH**
2 Q. Broken twill weave?
3 **A. That's correct.**
4 Q. Does Hickey Freeman have any weight
5 testing that it undertakes concerning the
6 interlining at any point in the manufacturing
7 process?
8 **A. No.**
9 Q. Does it do so now after February 2017?
10 **A. No.**
11 Q. The sample you obtained from 2012, did
12 you weigh that?
13 **A. No.**
14 Q. Did you do anything with it?
15 **A. No.**
16 Q. And is it your testimony that Hickey
17 Freeman did not weigh the 630 from an interlining
18 roll that was from the subject shipment with any
19 other type of 630? It was a 630 compared to BMV40
20 or Kufner in the weight test you were doing?
21 **A. That is correct.**
22 Q. In addition to the visit with Fran and
23 Barry, did you also have some type of store visits
24 that day or something else organized that day in
25 your schedule?

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1 DIDUCH
2 **A. I don't think so, no. Do you mean store**
3 **visits that we go to the stores or having somebody**
4 **else coming in?**
5 Q. Where you go to the store.
6 **A. Oh, no, I don't think so.**
7 Q. Did anybody else visit you that day?
8 **A. I don't remember.**
9 **MS. MORGAN:** Okay. Can you mark this? I
10 think we're on three.
11 **THE REPORTER:** Five.
12 **MS. MORGAN:** Oh, five.
13 (Whereupon, Defendant's
14 Deposition Exhibit No. 5 was
15 marked for identification.)
16 **BY MS. MORGAN:**
17 Q. Mr. Diduch, if you could take a look at
18 this exhibit and let me know when you've reviewed it.
19 **A. I reviewed it.**
20 Q. This is an e-mail from Alan Abramowicz to
21 yourself dated April 13, 2017. Within this chain,
22 another e-mail states that there's a quality control
23 issue with a shipment that was sent on 2/27/17 to a
24 customer of Hickey Freeman.
25 My question to you, Mr. Diduch, is that

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1 DIDUCH
2 given that this e-mail is dated April 13, 2017, how
3 is it that the shipment left on 2/27/17 from
4 Hickey Freeman after Hickey Freeman having been
5 aware of the potential strikeback issue?
6 **A. When we first --**
7 **MR. D'ANGELO:** Objection to form.
8 **THE WITNESS:** When we first became aware of
9 the issue, we were looking for bubbling that had
10 been shown in the photos. We were of the opinion at
11 the time that if the garment looked fine, there
12 wasn't a problem with it. We later determined that
13 these bubbles could manifest themselves at a later
14 date. At this point in time, we weren't aware of
15 that.
16 **BY MS. MORGAN:**
17 Q. When did Hickey Freeman learn that the
18 bubbling could manifest at a later date?
19 **A. I don't know when we first became aware**
20 **of it.**
21 Q. Do you remember the month?
22 **A. No.**
23 Q. So you don't remember if it was in
24 February?
25 **A. It certainly wasn't in February.**

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1 **DIDUCH**
2 Q. Was it in March?
3 **A. I can't tell you. You know, it all runs**
4 **together now.**
5 Q. And how does the bubbling manifest later?
6 **A. We think it's either from the jostling**
7 **and movement in shipping or from a phenomenon that's**
8 **like delamination due to differential shrinkage.**
9 Q. What's that phenomenon called?
10 **A. Delamination.**
11 Q. So you believe that -- let's take that
12 one at a time.
13 So the jostling and movement in shipping,
14 what is the basis of that belief?
15 **A. We eventually came to the understanding**
16 **that we were shipping garments that looked fine and**
17 **later looked bad. So the -- there weren't a lot of**
18 **things that could be doing this other than movement**
19 **and shipping or differential shrinkage.**
20 Q. Did Hickey Freeman perform any tests to
21 see if movement could cause the bubbling to return?
22 **A. We did some tests to see not if it would**
23 **return, but it would manifest itself in the first**
24 **place.**
25 Q. Can you describe that test?

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1 DIDUCH
2 **A. Well, we just took jackets and we bounced**
3 **them around and shipped them around a bit and pulled**
4 **and tugged and made them move and said does this**
5 **make them separate to an extent that it becomes**
6 **visible.**
7 Q. What suits did you do that with?
8 **A. I don't remember which.**
9 Q. Were they suits that you believed had the
10 630 in it?
11 **A. Yes.**
12 Q. And did they already have bubbling on it?
13 **A. No.**
14 Q. So it was 630 suits that had gone through
15 production and no bubbling had manifested at all?
16 **A. Correct.**
17 Q. And was any pulling done on these suits?
18 **A. "Pulling" in what sense?**
19 Q. Pulling the face of the jacket from the
20 interlining.
21 **A. Before we did the tests, we pulled**
22 **carefully on a corner to determine whether it was**
23 **strikeback or not, and then if there was strikeback,**
24 **then we said let's bounce it around and see if it**
25 **starts to bubble or separate.**

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1 **DIDUCH**
2 Q. And when you say "bounce it around", what
3 do you mean exactly?
4 **A. Literally that, let's shake it up and**
5 **down and move it around, simulate the kind of**
6 **beating it might get when it's being shipped in a**
7 **box.**
8 Q. And who would do that simulation?
9 **A. I did it and Roy did it and I don't**
10 **remember who else did it.**
11 Q. And was that just with the jackets?
12 **A. There may have been pants on a hanger.**
13 **I don't remember.**
14 Q. And was the bouncing around, was it while
15 the suit was on a hanger?
16 **A. Yes.**
17 Q. And was it, you know, holding the hanger
18 and then shaking it, the suit?
19 **A. Shaking the suit or, you know, jostling**
20 **it so it hits against the surface. Just sort of the**
21 **kind of movements that it would experience during**
22 **shipping and handling.**
23 Q. For how long was the jostling?
24 **A. A minute or two.**
25 Q. So a minute or two per suit?

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1 **DIDUCH**
2 **A. Yes.**
3 Q. And after the minute or two of shaking it
4 about, was it placed back on a rack or what would --
5 where were the suits positioned?
6 **A. Either on a rack or we had hooks on walls**
7 **or depending on where we happened to be.**
8 Q. And were the suits also at that point in
9 time when they're being jostled, did you also touch
10 the suits with your hands?
11 **A. Probably, yes.**
12 Q. Well, do you recall touching them with
13 your hands?
14 **A. Well, we would have to have touched them**
15 **if we were holding them and jostling them.**
16 Q. Well, I suppose you could be holding the
17 hanger and not actually touching the suit. So my
18 question is do you recall, you yourself, actually
19 touching the fabric of the suit?
20 **MR. D'ANGELO:** You mean while the test is
21 performed or before it or after it?
22 **BY MS. MORGAN:**
23 Q. While the test is being performed.
24 **A. The way that we were holding it is such**
25 **that if you're shaking a hanger, we're making sure**

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1 **DIDUCH**
2 **that it's not going to fall off the hanger, so you**
3 **got a bit of the neck of the suit in your hand as**
4 **well.**
5 Q. Did you touch any of the front facing of
6 the jacket with your hands?
7 **A. Possibly.**
8 Q. Do you recall doing that?
9 **A. No.**
10 Q. Do you recall seeing Roy Nicholls do that?
11 **A. I don't have a recollection of it.**
12 Q. And did anybody else other than you and
13 Roy Nicholls engage in that jostling test?
14 **A. It's very possible. I don't remember.**
15 Q. And after you jostled it for a minute or
16 two and hung it back up, did you wait a certain
17 period of time to see if the bubbling returned?
18 **A. It's not that bubbling returned. It is**
19 **that it's manifesting itself in the first place.**
20 **MR. D'ANGELO:** Note my objection to form to
21 the question.
22 **BY MS. MORGAN:**
23 Q. Well, did you wait a period of time after
24 hanging the jacket up after the jostling test to see
25 if bubbles appeared?

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1 **DIDUCH**
2 **A. We didn't need to wait. They were**
3 **starting to become apparent.**
4 Q. Within how -- within what approximate
5 amount of time from doing the jostling?
6 **A. Sometimes immediately.**
7 Q. Did you yourself notice immediately
8 bubbling?
9 **A. On certain occasions I noticed separation.**
10 Q. Did that separation include bubbles?
11 **A. Some form of bubbles.**
12 Q. And aside from immediately occasionally
13 observing the bubbles, once you hung the suits back
14 up, did you then later inspect them again to see if
15 the bubbles were there?
16 **A. Yes.**
17 Q. And about how much time did you wait to
18 do that additional inspection?
19 **A. I don't recall.**
20 Q. Do you remember if it was more than an
21 hour, a couple hours, less than an hour, any
22 approximation?
23 **A. In certain instances, it would have been**
24 **an hour, and in other instances, we'd look back at**
25 **it in a few days, even a week later to see what it**

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1 **DIDUCH**
2 **looked like.**
3 Q. Is the jostling test, we'll call it, is
4 that fair, do you know what I'm saying when I say
5 jostling test?
6 **A. Yes.**
7 Q. Is the jostling test a test that
8 Hickey Freeman currently uses?
9 **A. No.**
10 Q. Would the jostling test help to determine
11 if there's strikeback in a suit?
12 **A. No.**
13 Q. What would it help to determine?
14 **A. If a suit that previously looked like it**
15 **was correct in terms of quality would later manifest**
16 **evidence of bubbling or other defects.**
17 Q. Is the bubbling that is manifested due to
18 strikeback?
19 **A. Yes.**
20 **MR. D'ANGELO:** On these specific suits?
21 **MS. MORGAN:** Just in general.
22 **MR. D'ANGELO:** Objection to form.
23 **THE WITNESS:** The bubbling we were discussing
24 was the result of strikeback that was separating.
25

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1 **DIDUCH**
2 **BY MS. MORGAN:**
3 Q. So the -- is there any reason why
4 Hickey Freeman wouldn't then perform this additional
5 jostling test to catch any strikeback with future
6 suits?
7 **A. The jostling test wasn't to test for**
8 **strikeback. It was to test for the development of**
9 **bubbles in suits we already knew had strikeback. We**
10 **have not had strikeback since, so there's no need to**
11 **test for any development of defects due to**
12 **strikeback.**
13 Q. Is there a pull test currently being used
14 by Hickey Freeman to determine if there's
15 strikeback?
16 **MR. D'ANGELO:** Objection, asked and answered.
17 **THE WITNESS:** We will look at the garments and
18 inspect them visually and feel them.
19 **BY MS. MORGAN:**
20 Q. And so you're saying that you never have
21 to do the jostling test because you've never found
22 strikeback from the pull test?
23 **A. That's correct.**
24 Q. And you don't recall when you and Roy
25 started using the jostling test?

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1 **DIDUCH**
2 **A. No.**
3 Q. If you performed the jostling test and
4 bubbles appeared, what would you then -- and that,
5 in fact, happened, correct?
6 **A. Pardon?**
7 Q. Did it, in fact, happen that you
8 performed the jostling test and bubbles appeared?
9 **A. Yes.**
10 Q. What did you do with that suit after?
11 **A. I don't recall.**
12 Q. Was there --
13 **MR. D'ANGELO:** Can we go off the record for a
14 second? Just take a very, very quick break, two
15 minutes.
16 (Whereupon, a short break was
17 taken.)
18 **MS. MORGAN:** Can we get the last question and
19 answer, please.
20 (Whereupon, the record was read
21 as requested.)
22 **BY MS. MORGAN:**
23 Q. Do you remember when Hickey Freeman
24 stopped performing any jostling test?
25 **A. The only reason we were performing this**

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1 **DIDUCH**
2 **test was just to test out of theory that this could**
3 **be what was happening, that bubbles would manifest**
4 **later due to them being jostled, so it wasn't**
5 **something that was required to be ongoing.**
6 Q. So once you performed the jostling test
7 and observed bubbles appearing due to that movement,
8 did the jostling test cease?
9 **A. Yes.**
10 Q. You also mentioned that the two factors
11 that could relate to delayed onset of bubbling was
12 either jostling and movement with the shipping or
13 the delamination. Do you recall that?
14 **A. Yes.**
15 Q. Can you describe the delamination factor
16 for me?
17 **A. Delamination is normally the effect of**
18 **fabric separating from fusible and it results in**
19 **visible bubbles. In this case, it's as though the**
20 **fabric and the fusible were acting as one membrane**
21 **which had become glued to the cotton, the cotton**
22 **pocketing very evenly, and then experienced**
23 **localized delamination from the cotton pocketing**
24 **which manifested in bubbles.**
25 Q. And did you determine if any of the

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1 DIDUCH
2 bubbling was due to delamination?
3 **MR. D'ANGELO:** Objection to form,
4 mischaracterizes the witness's testimony.
5 **THE WITNESS:** It's a theory that has a lot of
6 plausibility to it. It would be very difficult to
7 test.
8 **BY MS. MORGAN:**
9 Q. Were you finished?
10 **A. Yes.**
11 Q. Did Hickey Freeman take any actions to
12 determine if it was delamination?
13 **MR. D'ANGELO:** Objection, form,
14 mischaracterizes the witness's testimony.
15 **THE WITNESS:** It wasn't delamination as we
16 normally characterize it, but the fabric
17 delaminating from the pocket that it was adhered to
18 due to strikeback.
19 **BY MS. MORGAN:**
20 Q. Did Hickey Freeman take any action to
21 determine if it was delaminating from the pocket?
22 **A. Well, it was clearly delaminating from**
23 **the pocket. That was the bubble.**
24 Q. So previously you described two factors
25 that could have been causing the bubbling, the

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1 DIDUCH
2 jostling, the movement, and the other factor that
3 you described as delamination or differential in
4 shrinkage, right?
5 **A. Delamination due to differential shrinkage.**
6 Q. Did Hickey Freeman take any -- did
7 Hickey Freeman make any tests to determine if the
8 bubbling was caused from differential shrinkage or --
9 **A. No.**
10 **MR. D'ANGELO:** Let her finish the question.
11 **THE WITNESS:** Sorry.
12 **BY MS. MORGAN:**
13 Q. Differential shrinkage is the same thing
14 in your mind as delamination?
15 **A. Delamination can be caused by**
16 **differential shrinkage.**
17 Q. Did Hickey Freeman take any -- did
18 Hickey Freeman perform any tests to determine if
19 differential shrinkage was causing the bubbling?
20 **A. There's no known tests in that scenario.**
21 Q. Is it fair to say that there was no test
22 performed with regard to the second factor of
23 delamination?
24 **MR. D'ANGELO:** Objection to form,
25 mischaracterizes the witness's testimony.

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1 DIDUCH
2 **THE WITNESS:** Could you repeat the question.
3 (Whereupon, the record was read
4 as requested.)
5 **THE WITNESS:** Yes.
6 **MR. NIEDERER:** Can we just take a one-minute
7 break. Just a one-minute break.
8 **MS. MORGAN:** Okay.
9 (Whereupon, a short break was
10 taken.)
11 **BY MS. MORGAN:**
12 Q. Mr. Diduch, with regard to the jostling
13 test that you and Roy performed, is it now
14 Hickey Freeman's position that the jostling, in
15 fact, caused some of the bubbling to appear on the
16 damaged suits?
17 **MR. D'ANGELO:** Objection to form,
18 mischaracterizes the witness's testimony.
19 **THE WITNESS:** It's our opinion that the
20 movement and jostling can cause the fabric which is
21 struck back to the pocketing to start to separate.
22 **BY MS. MORGAN:**
23 Q. Is it Hickey Freeman's conclusion that,
24 in fact, that did happen with -- along the course of
25 the shipping with some of these damaged suits?

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1 DIDUCH
2 **MR. D'ANGELO:** Objection to form, vague and
3 mischaracterizes the witness's testimony.
4 **THE WITNESS:** Can you rephrase.
5 **BY MS. MORGAN:**
6 Q. Sure. Some of the suits were shipped to
7 customers that were allegedly defective, allegedly
8 damaged, correct?
9 **A. Yes.**
10 Q. And is it Hickey Freeman's position that
11 any of those suits that left Hickey Freeman's
12 production floor that went to the customers were
13 damaged by having the movement of the shipment cause
14 the bubbles to appear on the jacket?
15 **MR. D'ANGELO:** Objection.
16 **THE WITNESS:** No, they weren't damaged by
17 movement. They were damaged by having strikeback
18 which was not visible during production or at the
19 end of inspection, but then became visible later
20 when it started to separate.
21 **BY MS. MORGAN:**
22 Q. So is it Hickey Freeman's position that
23 the strikeback became noticeable on some of the
24 suits through bubbling by way of the shipping?
25 **MR. D'ANGELO:** Objection, vague.

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1 DIDUCH
2 **THE WITNESS:** It's a possibility.
3 **BY MS. MORGAN:**
4 Q. Do you know if Hickey Freeman put any of
5 the damaged suits in a test shipment and shipped it
6 to themselves?
7 **A. No, we did not.**
8 Q. Did Hickey Freeman ever discuss doing
9 that test?
10 **A. Yes, we did.**
11 Q. And why wasn't that done?
12 **A. We discussed this later in the context of**
13 **another discussion about things that can occur**
14 **during shipping.**
15 Q. And do you know the reason why the test
16 shipment was never done by Hickey Freeman?
17 **A. We didn't think it necessary.**
18 Q. Why not?
19 **A. We thought we would have to ship far too**
20 **many garments to get potential results.**
21 Q. Do you mean that, for example, you would
22 have to ship a hundred garments to see if a portion
23 of those hundred would have some kind of bubbling
24 result due to the shipment?
25 **A. That is correct.**

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1 **DIDUCH**
2 Q. Do you know if Hickey Freeman shipped any
3 of the allegedly damaged suits to its own premises
4 in New York City?
5 **A. No, we did not.**
6 Q. What was the basis of Hickey Freeman's
7 belief that the shipping may have required, you
8 know, a number of suits to determine if there was a
9 bubbling effect from the shipment?
10 **A. It didn't appear that the bubbling showed**
11 **up on every single suit. If it showed up on every**
12 **single suit, we could send out one or two suits and**
13 **see it would come back. But because it was only on**
14 **certain suits, if we shipped out ten suits, we**
15 **weren't guaranteed to get a result that they may**
16 **come back looking perfect and it wouldn't validate**
17 **the theory.**
18 Q. Were the certain suits that came back --
19 strike that.
20 Were the certain suits that were
21 delivered to the customer with bubbling, did they
22 all share any common factor like the fabric type or
23 anything of that nature?
24 **A. We had a variety of different fabric**
25 **types that had bubbling.**

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1 **DIDUCH**
2 Q. Are you aware of any factor that all the
3 suits that had bubbling after shipment shared?
4 **A. They had all 630 fusible.**
5 Q. Any other factor?
6 **A. They all had pockets.**
7 Q. Any other factor?
8 **A. Not that would be -- that would**
9 **contribute to this issue.**
10 **(Whereupon, Defendant's**
11 **Deposition Exhibit No. 6 was**
12 **marked for identification.)**
13 **BY MS. MORGAN:**
14 Q. Mr. Diduch, if you could take a look at
15 Exhibit 6, and let me know when you've had an
16 opportunity to review it.
17 **A. Yes.**
18 Q. This is an e-mail chain, the last one
19 being dated October 24, 2016, and it's an e-mail
20 from Barry Diamond to yourself. Going on -- looking
21 at page what's labeled HF106, it's the second page.
22 Do you see that?
23 **A. Yes.**
24 Q. In the middle e-mail, it's from you to
25 Barry Diamond dated October 24, 2016, it states:

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1 **DIDUCH**
2 Quote, while I have your ear, though, we
3 have been having terrible strikeback with the skin
4 fusing that we are using and will need to look at
5 this closer.
6 Do you see that?
7 **A. Yes.**
8 Q. Is that in reference to when you have an
9 armhole problem with the 630?
10 **A. Yes.**
11 Q. And here you use the term "terrible
12 strikeback". Can you describe to me what was
13 terrible about it?
14 **A. It was visible from the outside.**
15 Q. And when you said that we need to look at
16 this closer, did you take any further action?
17 **A. Not at that moment.**
18 Q. When you had the -- when you noticed what
19 you term as a "terrible strikeback", did
20 Hickey Freeman continue to use the 630?
21 **A. Yes.**
22 Q. Did Hickey Freeman consider not using the
23 630 at that point?
24 **A. No.**
25 Q. And --

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1 DIDUCH
2 **A. Well, we considered looking at**
3 **alternatives.**
4 Q. And what other alternatives did
5 Hickey Freeman consider, if any?
6 **A. We didn't at that point. We considered**
7 **the possibility of looking at alternatives.**
8 Q. Were other alternatives ever looked at?
9 **A. Eventually, yes.**
10 Q. And when was that?
11 **A. February.**
12 Q. I see that Roy Nicholls is also included
13 in this e-mail from yourself to Barry. Was
14 Roy Nicholls aware of the strikeback in -- what you
15 called strikeback -- in that time period with the
16 armholes?
17 **MR. D'ANGELO:** Objection to form.
18 **THE WITNESS:** To the extent that he was copied
19 on this e-mail, that's what he knew.
20 **BY MS. MORGAN:**
21 Q. Did you ever discuss it with him?
22 **A. No.**
23 Q. Did Mr. Nicholls ever become involved in
24 any of the discussions with Veratex by e-mail or
25 otherwise or anything concerning the armhole issue?

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1 DIDUCH
2 **A. I don't think so.**
3 Q. In October 24, 2016, Roy Nicholls was the
4 VP of production; is that correct?
5 **A. That would be correct.**
6 Q. And do you know if he took any action
7 with regards to the production of menswear after
8 receiving this e-mail noting that there is terrible
9 strikeback?
10 **MR. D'ANGELO:** Objection.
11 **THE WITNESS:** I don't think he did.
12 **BY MS. MORGAN:**
13 Q. If you'd take a look at the first page,
14 Barry Diamond writes to yourself:
15 Quote, perhaps you are using on different
16 fabrics in which reaction is different, end quote.
17 Do you see that?
18 **A. Yes.**
19 Q. Is there -- was there any difference in
20 fabric use that you think could have contributed to
21 the armhole issue?
22 **A. There weren't enough examples of it to**
23 **make any kind of conclusion.**
24 Q. After receiving this e-mail from
25 Mr. Diamond where he also notes, you know,

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1 DIDUCH
2 perhaps -- quote, or perhaps the fusing cycle, or
3 pressing cycle has changed.
4 Did you make any determinations whether
5 the fusing cycle or pressing cycle had changed?
6 **A. Yes.**
7 Q. And what were your conclusions?
8 **A. They had not changed.**
9 Q. How did you check to see if the fusing or
10 pressing cycle had changed?
11 **A. I asked the mechanics and I asked the**
12 **supervisor of the section.**
13 Q. Who was that?
14 **A. Eva Cossio.**
15 **MR. NIEDERER:** Sorry, just read back that last
16 part, didn't ask the mechanics and didn't ask --
17 **MS. MORGAN:** He did ask.
18 **MR. D'ANGELO:** He said did ask.
19 **MR. NIEDERER:** Oh, he did ask. Not didn't.
20 You're right.
21 **MS. MORGAN:** Do you want to just read it back?
22 **MR. NIEDERER:** Did ask the mechanics and did
23 ask --
24 (Whereupon, the record was read
25 as requested.)

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. And what section are you referring to?
4 **A. The fusing section.**
5 Q. Do you know how the supervisor -- let me
6 start that question over.
7 What did the supervisor tell you when you
8 asked if the pressing or fusing cycles had changed?
9 **A. She told me that there had been no change.**
10 Q. And do you know what she did to determine
11 that answer?
12 **A. If there had been a change, they would**
13 **have had to change the parameters that are posted on**
14 **the machine.**
15 Q. You mean on the pieces of paper that are
16 on the machine?
17 **A. That's correct.**
18 Q. Have those ever changed while you've been
19 at Hickey Freeman?
20 **A. Yes.**
21 Q. And when was that?
22 **A. The last one was June of last year I think.**
23 Q. How did those change?
24 **A. I don't remember the exact change to it.**
25 Q. And you're referring to June 2017, right?

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1 DIDUCH
2 A. Yes.
3 Q. Do you remember what aspect was changed?
4 A. No, I don't remember.
5 Q. When the parameters are changed, are
6 they -- are the prior pieces of paper that are on
7 the machines saved?
8 A. I don't believe the pieces of paper on
9 the machines are saved, but the mechanics may have
10 the Excel sheet or the Word document or whatever was
11 used to do the previous ones. I don't know.
12 Q. Do you mean, like, a template for what's
13 put on the machines?
14 A. No. Whatever they -- they typed it up in
15 some kind of Word process or Excel spreadsheet in
16 order to print it to put into the machines. I am
17 assuming they saved it. They saved that file.
18 Q. And is it the mechanics that type that up?
19 A. Yes.
20 Q. Aside from June 2017, is there any other
21 time the parameters have been changed on those types
22 of documents that you know of?
23 A. If we made a change after Barry's visit,
24 we would have changed those documents. I can't
25 think of another moment off the top of my head.

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1 DIDUCH
2 Q. And although you don't know what
3 parameters were changed in June 2017, do you know
4 why they were changed?
5 A. I don't remember why.
6 Q. Who would make that decision?
7 A. It would be in concordance between me and
8 Sal and perhaps the fusing section manager or the
9 mechanics.
10 Q. But would you need to approve of any
11 change?
12 A. Usually, yes.
13 Q. Does anybody else have the authority to
14 approve that change?
15 A. Sal Miceli might.
16 Q. Anybody else?
17 THE REPORTER: Say that again.
18 THE WITNESS: Sal Miceli.
19 MR. D'ANGELO: Sal Miceli might.
20 THE WITNESS: Meaning he might give that
21 approval. No.
22 MS. MORGAN: Did you get that okay?
23 THE REPORTER: Yes.
24 BY MS. MORGAN:
25 Q. Were they changed in 2017 as a result of

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1 DIDUCH
2 the February 2017 discovery of alleged strikeback?
3 A. No. It's more likely they were changed
4 because of the change in the fusible, the actual
5 fusible itself.
6 Q. Do you remember when Hickey Freeman
7 started using that new fusible?
8 A. Yes.
9 Q. And when was that?
10 A. February twenty -- the last week of
11 February of 2017.
12 Q. And so from February 2017 to June 2017,
13 was the new fusible used with the same parameters as
14 the 630?
15 A. I believe so.
16 Q. And did any problems occur from that?
17 A. No.
18 Q. So do you know what prompted the
19 June 2017 change?
20 MR. D'ANGELO: Objection, asked and answered.
21 THE WITNESS: I don't recall.
22 BY MS. MORGAN:
23 Q. Here we have in the same exhibit, Barry
24 continues to write:
25 Quote, normally we recommend fusing at

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1 DIDUCH
2 130 to 145 degrees Celsius on this item and 2.5 to
3 30 bars, 8 to 10 seconds.
4 Do you see that?
5 A. Yes.
6 Q. Is that the recommendation that you
7 testified earlier to?
8 MR. D'ANGELO: Objection.
9 MR. NIEDERER: Object as to form.
10 THE WITNESS: Is --
11 BY MS. MORGAN:
12 Q. I'll ask my question a different way.
13 Earlier do you recall testifying to
14 Barry Diamond writing you an e-mail recommending
15 parameters that were different than what was on the
16 Veratex data sheet?
17 A. Yes.
18 Q. Is that this e-mail?
19 A. Yes.
20 Q. And did Hickey Freeman ever consider
21 using a 34 mesh rather than a 23 mesh?
22 A. No.
23 Q. And why is that?
24 A. He himself thought it might be problematic.
25 Q. What did -- what were Hickey Freeman's

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1 DIDUCH
2 thoughts on that, if any?
3 **A. If he thought it might be problematic, we**
4 **didn't want to take the risk.**
5 **MS. MORGAN:** You can put that exhibit away.
6 Can you mark that, please.
7 (Whereupon, Defendant's
8 Deposition Exhibit No. 7 was
9 marked for identification.)
10 **BY MS. MORGAN:**
11 Q. Mr. Diduch, if you could take a look at
12 Exhibit 7 and let me know when you're done.
13 **A. Yes.**
14 Q. This is an e-mail from yourself to
15 Barry Diamond dated February 21, 2017, and you
16 write: "It was intermittent, as we spoke about it
17 once already, it would come and go."
18 Do you see that sentence?
19 **A. Yes.**
20 Q. Are you referring to the alleged
21 strikeback from October 2016 in that sentence?
22 **A. Yes.**
23 Q. You later write: Quote, we have not
24 changed our fusing or pressing protocols lately, end
25 quote.

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1 DIDUCH
2 Do you recall changing the fusing or
3 pressing protocols at any point in time while you
4 were at Hickey Freeman?
5 **A. The pressing protocols have not changed.**
6 **As I said, the fusing protocols had changed June 1**
7 **of last year and maybe at another time, but that's**
8 **it.**
9 Q. This e-mail was written on February 21,
10 2017 prior to the June 2017 change. So my question
11 relates to pressing protocols changing -- pressing
12 or fusing protocols changing prior to this e-mail?
13 **A. No.**
14 Q. Prior to the 630, do you know if any
15 fusible that Hickey Freeman used for skin fusing?
16 **MR. D'ANGELO:** Sorry, I missed the question.
17 Can you read it back, please.
18 (Whereupon, the record was read
19 as requested.)
20 **THE WITNESS:** I'm not aware.
21 **BY MS. MORGAN:**
22 Q. So is it that on your first day, they had
23 already been using the 630?
24 **A. Yes.**
25 **MS. MORGAN:** You can put that exhibit away, sir.

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1 DIDUCH
2 (Whereupon, Defendant's
3 Deposition Exhibit No. 8 was
4 marked for identification.)
5 **BY MS. MORGAN:**
6 Q. And, Mr. Diduch, if you could take a look
7 at this exhibit and let me know when you're done.
8 **A. Okay.**
9 Q. This exhibit is an e-mail from yourself
10 to Natalie Condon dated February 21, 2017. On the
11 first page you write:
12 Quote, the issue we have been having from
13 time to time is that the resin seeps through the
14 very fine membrane and adheres to other layers in
15 what we call strikeback.
16 Do you see that, sir?
17 **A. Yes.**
18 Q. The issue here where you write it's
19 been -- you've been -- Hickey Freeman's been having
20 it from time to time, when is the first time that
21 you recall Hickey Freeman having a strikeback issue?
22 **A. It was sometime in the fall of 2016.**
23 Q. And is that referring to the armhole
24 strikeback damage?
25 **A. Yes.**

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1 **DIDUCH**
2 Q. You continue to write:
3 Quote, we have seen very minor incidences
4 of strikeback but nothing as bad as what we see in
5 this photo.
6 Do you see that, sir?
7 **A. Yes.**
8 Q. And the minor incidences of strikeback,
9 are you referring to the armhole strikeback issue --
10 **A. Yes.**
11 Q. -- of the fall of 2016?
12 **A. Yes.**
13 Q. When that was occurring, was the sales
14 team informed?
15 **A. No.**
16 Q. Was anybody other than Roy Nicholls
17 informed?
18 **A. I didn't feel it was necessary to inform**
19 **people something which represented perhaps one-half**
20 **of a percent of the production. It was just not**
21 **necessary to raise any big flags.**
22 Q. I understand, sir. But was, in fact,
23 anybody else notified other than Roy Nicholls?
24 That's my question.
25 **A. I would certainly have discussed it with**

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1 **DIDUCH**
2 **Sal, but other than that, I don't -- don't remember.**
3 Q. You said Sal there, right?
4 **A. Yes.**
5 Q. You write later:
6 Quote, we have reviewed our fusing
7 protocols against the requirements of the article in
8 question and we are doing it correctly, end quote.
9 Do you see that?
10 **A. Yes.**
11 Q. What is the comparison that you did?
12 **A. I took the data sheet for the fusible and**
13 **went to see if we were meeting the parameters for**
14 **heat, dwell time, and pressure.**
15 Q. Are you talking about the Veratex data
16 sheet?
17 **A. That is correct.**
18 Q. And how did you check it with the
19 parameters that you were using?
20 **A. We took a temperature test strip and**
21 **tested the internal temperature, we used the**
22 **stopwatch to check the dwell time, and we checked**
23 **the pressure gauge on the machine.**
24 Q. And when you say "we", did you do that
25 yourself?

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1 **DIDUCH**
2 **A. Yes.**
3 Q. And anybody else?
4 **A. Oh, I don't remember who else would have**
5 **been with me.**
6 Q. You next write:
7 Quote, I have had a meeting with all the
8 QC, inspectors and most of the pressing operators so
9 that they keep an eye out for this as it can
10 sometimes be difficult to spot, at least fresh off
11 the press.
12 Do you see that?
13 **A. Yes.**
14 Q. Did you have any instructions to QC,
15 inspectors and/or the pressing operators with
16 regards to visual inspections?
17 **MR. D'ANGELO:** Objection to form.
18 **THE WITNESS:** I had a picture that I
19 circulated from the Ascot Shop. I said we need to
20 be on the lookout for something like this.
21 **BY MS. MORGAN:**
22 Q. Were there any other directions or
23 guidance or instructions regarding the visual
24 instructions to look out for it?
25 **A. If they were to see any evidence of it,**

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1 **DIDUCH**
2 **they had to get me immediately.**
3 Q. And did that happen?
4 **MR. D'ANGELO:** Objection to form.
5 **THE WITNESS:** I don't remember.
6 **BY MS. MORGAN:**
7 Q. You don't remember that ever happening?
8 **A. I don't remember specific instances of**
9 **somebody on the line saying, hey, I found some**
10 **bubbling.**
11 Q. And "on the line", do you mean the
12 production line?
13 **A. Production and press line, sorry, jargon.**
14 Q. It's okay. You later write:
15 Quote, I already have samples from two
16 alternate suppliers which we are testing and I am
17 very much inclined to immediately discontinue this
18 article, parentheses, and perhaps this supplier, end
19 parentheses, and order a replacement tomorrow.
20 Do you see that, sir?
21 **A. Yes.**
22 Q. Is the testing you're referring to the
23 prior testing you have testified about with the
24 Kufner and the other brand?
25 **A. That is correct.**

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1 **DIDUCH**
2 Q. And lastly, the sentence towards the
3 bottom of that same paragraph: Quote, if the
4 customer does not want to lose selling time, we can
5 show him how to separate the layers, although this
6 might be a little delicate. If there is a way to
7 maybe get them from them for a day and have someone
8 do it for them, it might avoid certain questions
9 being asked.
10 Do you see that?
11 **A. Yes.**
12 Q. What were the questions that would have
13 been avoided being asked?
14 **A. It's very difficult to communicate to the**
15 **customer exactly what should be stuck together and**
16 **should not. In the course of making the garment,**
17 **there are certain rows of invisible stitching inside**
18 **that if you try to separate the layers, they**
19 **shouldn't separate. You can pull them and rip them**
20 **apart, but you could damage the suit in so doing.**
21 **So it was hard to get into it with them of what**
22 **should be pulled and what should be separated and**
23 **what shouldn't be separated and what is right and**
24 **what is wrong. I felt it was getting into the weeds.**
25 Q. Did any of the customers that -- the

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1 DIDUCH
2 retail customers that Hickey Freeman dealt with or
3 yourself personally -- let me start that question
4 over.
5 Did you personally interact with any of
6 the customers concerning this strikeback issue?
7 **A. I don't remember if I did or not.**
8 **I certainly offered to. Usually the account**
9 **executives do the communicating with the stores and**
10 **I don't remember if I spoke with any of them**
11 **directly.**
12 Q. Did -- do you know if the customers were
13 aware that interlining was in Hickey Freeman's
14 suits?
15 **A. Some of them were.**
16 Q. And do you remember which ones?
17 **A. No.**
18 Q. Do you know if Dillard's was aware?
19 **A. Yes, they were.**
20 Q. And how do you know that?
21 **A. We had a product made for them which**
22 **specifically carried fusible.**
23 Q. Which product was that?
24 **A. It was a blazer.**
25 Q. Was it a Hickey Freeman brand?

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1 DIDUCH
2 **A. Yes.**
3 Q. Was that blazer part of a suit?
4 **A. No. A blazer is just a jacket by itself.**
5 Q. A standalone jacket?
6 **A. Yes.**
7 Q. Do you know if Dillard's was aware or not
8 of whether the Hickey Freeman branded suits had
9 interlining in them?
10 **A. That particular jacket, I think it's**
11 **maybe useful to specify that any kind of canvas can**
12 **be referred to as interlining as well. Half canvas**
13 **product will have a very heavy interlining; skin**
14 **fusing is a very lightweight interlining.**
15 **So all garments have interlining in them**
16 **of some kind or another. Dillard's was aware that**
17 **there was a fusible interlining in there.**
18 Q. In the suits?
19 **A. In their blazer and perhaps in others.**
20 Q. Perhaps in others because they knew it
21 was in the blazer?
22 **A. I know for a fact they knew it in the**
23 **blazer. Whether they knew there was stuff in other**
24 **items, I don't know. I wasn't privy to those**
25 **discussions.**

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1 **DIDUCH**
2 Q. Okay. You can put that exhibit away.
3 **A. Can I take a quick bathroom break?**
4 Q. Sure.
5 (Whereupon, a short break was
6 taken.)
7 (Whereupon, Defendant's
8 Deposition Exhibit No. 9 was
9 marked for identification.)
10 **BY MS. MORGAN:**
11 Q. Mr. Diduch, if you could look at
12 Exhibit 9 and let me know when you're done.
13 **A. Okay.**
14 Q. In this e-mail that's from Salvatore
15 Miceli to yourself dated February 28, 2017, included
16 in the chain is an e-mail from Fran Natale who
17 wrote: Quote, meanwhile, is it possible to lessen
18 the cycle on the Rotondi front press machine, end
19 quote.
20 And your colleague Salvatore wrote, I
21 will follow up -- quote, I will follow up in the
22 morning, end quote.
23 Do you know if Salvatore followed up with
24 the suggestion to lessen the cycle of time?
25 **A. He came back and told me that he didn't**

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1 **DIDUCH**
2 **think it was necessary to lessen the cycle time.**
3 **And in any case at that point, we had stopped using**
4 **the 630, so it wasn't an issue.**
5 Q. When did he -- when did Salvatore come
6 back and say it's not necessary to lessen the cycle
7 time?
8 **A. It would have been the next day.**
9 Q. And what was his reasoning for that?
10 **A. The cycle time that Fran observed was the**
11 **entire cycle time, and it's a 21-second cycle time,**
12 **which appears long, but it's really only a**
13 **seven-second pressure dwell time which is fairly**
14 **minimal. And so our opinion was that Fran just**
15 **didn't know what he was looking at when he saw that**
16 **cycle time.**
17 Q. So Salvatore's writing of "I will follow
18 up in the morning", is that following up with you?
19 **A. Yes.**
20 Q. And other than lessening the cycle on the
21 Rotondi, did Mr. Natale provide any other
22 suggestions to -- following your meeting at the
23 plant?
24 **A. The only follow-up I had from him was**
25 **when we called and said, we tested and it's not**

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1 **DIDUCH**
2 **going to re-adhere after dry cleaning. I think that**
3 **was it.**
4 Q. Do you recall if Mr. Natale made any
5 other suggestions other than lessening the cycle
6 time on the Rotondi?
7 **A. I don't think so.**
8 Q. You can put that away.
9 (Whereupon, Defendant's
10 Deposition Exhibit No. 10 was
11 marked for identification.)
12 **BY MS. MORGAN:**
13 Q. Mr. Diduch, when you've had a chance to
14 look at Exhibit Number 10, let me know.
15 **A. Yes.**
16 Q. In this e-mail, there's an e-mail chain,
17 there's some exchanges. If you look at the one from
18 Ralph to yourself on April 21, 2017, Ralph writes
19 about two suits that were sent back on April 6, 2017
20 to be fixed and, quote, looks like we got most of
21 it, but as you can see not all of it, end quote.
22 Do you see that?
23 **A. Yes.**
24 Q. Were these garments that were sent back
25 to Hickey Freeman to be repaired and then --

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1 **DIDUCH**
2 repaired by Hickey Freeman and then sent back to a
3 customer?
4 **A. It would appear so.**
5 Q. Are you saying that because that's what
6 it seems to make sense from reading the e-mail?
7 **A. Correct.**
8 Q. Do you remember that ever happening?
9 **A. Where we had things come back to fix and**
10 **re-send them?**
11 Q. Yes.
12 **A. Yes, I think it happened. I mean, that's**
13 **what we were trying to work out with Dillard's, that**
14 **we would take them, do whatever we had to do to fix**
15 **them and send them back.**
16 Q. Where you write: Quote, whoever was
17 doing this in the shipping missed the breast pocket,
18 end quote. Were there any issue that Hickey Freeman
19 with the repair that was done where, you know,
20 certain areas were missed or anything of that nature?
21 **A. It was very difficult to separate the**
22 **breast pocket or even feel whether it had adhered or**
23 **not. I think at one point in time, and I'm not sure**
24 **until what point, if they saw that the breast pocket**
25 **looked clean and they tried to find an edge of a**

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1 **DIDUCH**
2 **pocket and couldn't find anything sticking, they**
3 **assumed that it wasn't sticking so went by it.**
4 **Clearly either they missed it because they couldn't**
5 **feel it or, I mean, it looks like it bubbled up**
6 **later. So I was guessing that they were just -- it**
7 **looked clean, they tried it, did it, they didn't**
8 **feel the pocket, so they said it's not sticking,**
9 **it's fine.**
10 Q. Did you ever pull at the breast pocket of
11 any damaged suits?
12 **A. Did I ever?**
13 Q. Yes.
14 **A. Yes.**
15 Q. And could you do it?
16 **A. Yes.**
17 Q. Was it difficult for you to do?
18 **A. Yes.**
19 Q. And did you ever provide any further
20 assistance or any guidance to any of the people that
21 were pulling the suits as to the -- any focus on the
22 breast pocket?
23 **A. Yes.**
24 Q. And what was that guidance you gave?
25 **A. I showed them how the pocket was**

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1 **DIDUCH**
2 **constructed from the inside, because you can't see**
3 **where the bag is from the outside and there's a few**
4 **parts that are tapped down, so you almost have to go**
5 **from just your mental imagery of what's happening**
6 **inside the suit to find that edge of the pocket, so**
7 **you really need to know where it is. You can't see**
8 **it. So I showed them the insides and how it was**
9 **constructed so they'd have a better idea of what**
10 **they were looking for.**
11 Q. Okay. You can put that away.
12 While -- strike the beginning of that.
13 Did any customer that you're aware of
14 report that the pulling technique did work?
15 **A. We had certainly our salespeople and I**
16 **think maybe -- I don't remember if it was customers**
17 **or salespeople, they said there's bubbling, we**
18 **pulled it, it didn't work because it's still**
19 **bubbling.**
20 Q. Did any customer that you're aware of
21 report that pulling did work?
22 **A. Yes.**
23 Q. Who was that?
24 **A. I don't recall.**
25 Q. Do you recall if it was more than one

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1 DIDUCH
2 customer?
3 **A. We -- I was mostly dealing with the sales**
4 **executives and not customers themselves. I don't**
5 **remember -- it's easy for me to conflate what a**
6 **sales executive would report back versus what a**
7 **store was reporting, which would have come through**
8 **the sales executive anyway. So I don't remember**
9 **what was the store's comment or what was the AE,**
10 **account executive.**
11 Q. Okay. Let's separate that. So do you
12 remember you yourself having received any feedback
13 from -- directly from a customer that the pulling
14 technique worked?
15 **A. Not directly from a customer. Through**
16 **our salespeople.**
17 Q. So through the salespeople --
18 **A. Meaning our sales representatives.**
19 Q. Understood.
20 Through a Hickey Freeman sales
21 representative, do you recall them reporting to you
22 that the pulling technique worked with certain
23 customers?
24 **A. Yes.**
25 Q. And do you recall roughly how many

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1 DIDUCH
2 customers that worked?
3 **A. No.**
4 Q. Do you remember if it was more than five?
5 **A. It was a significant -- statistically**
6 **significant portion of them. The majority of people**
7 **who were doing pulling to separate reported that,**
8 **yes, when we pull it, the bubbling disappears.**
9 Q. The customers that were reporting either
10 directly to you or through the salespeople that the
11 pulling worked -- strike that question.
12 My question is did anybody use the
13 pulling technique that resolved the issue and the
14 bubbling never came back that you know of?
15 **A. That I know of, yes.**
16 Q. Is that through the indirect
17 communication from the sales team of Hickey Freeman?
18 **A. Yes.**
19 Q. And do you recall that number of
20 customers? Is that the statistically significant
21 number?
22 **MR. D'ANGELO:** Objection to form.
23 **THE WITNESS:** It was -- if, for example, we
24 had eight reports of bubbling, six or seven of them
25 said it was resolved, there would only have been one

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1 DIDUCH
2 who said, hey, I pulled it and it still didn't help.
3 **BY MS. MORGAN:**
4 Q. Did Hickey Freeman get that kind of
5 reporting?
6 **A. We had responses back from our**
7 **salespeople who were giving us feedback about what**
8 **was going on in the stores.**
9 Q. Were those informal reports?
10 **A. No. They were just e-mails or phone calls.**
11 Q. Does Hickey Freeman have any conclusion
12 as to why the pulling worked on some suits and not
13 others?
14 **A. I think that the people -- some of the**
15 **people who were doing the pulling just weren't able**
16 **to locate the pocket itself. They were pulling the**
17 **front away from the canvas and thinking that would**
18 **be sufficient to separate everything, because they**
19 **didn't have an idea outside of what's pocketing,**
20 **what's canvas, where it's located or how to do it**
21 **correctly.**
22 Q. I know you just answered that with what
23 you personally think, but do you know if
24 Hickey Freeman has a position as to whether -- as to
25 why the pulling technique worked on some suits and

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1 DIDUCH
2 not others?
3 **A. It is our position that the person doing**
4 **the pulling had improper technique.**
5 Q. Are you aware of any customers
6 complaining about any other damage other than
7 strikeback with regards to these suits?
8 **A. I remember complaints about things in**
9 **general. Whether it was specifically those suits, I**
10 **can't recall.**
11 Q. I'm -- when I say those suits, I'm
12 referring to the suits --
13 **A. That are effected in the damage --**
14 **MR. D'ANGELO:** Let her finish the question.
15 **BY MS. MORGAN:**
16 Q. I'm referring to the suits that are
17 alleged to be damaged in this lawsuit.
18 **A. Correct.**
19 Q. With that qualification, do you recall a
20 customer complaining about any other problem with
21 the suits other than the strikeback or the bubbling?
22 **A. Yes.**
23 Q. And what were those complaints?
24 **A. Puckering is a complaint. There were**
25 **little issues. At the time, they were struggling to**

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1 **DIDUCH**
2 **meet their sales figures, and so Natalie Condon**
3 **instructed her salespeople to go into stores and try**
4 **to find out why there were problems. She said go**
5 **and take pictures of possible quality issues as a**
6 **possible explanation for us not meeting our sales**
7 **goals. She had people actively going into stores**
8 **looking for things and taking pictures of them. And**
9 **so when you take an active role of looking, you can**
10 **always find something.**
11 Q. And what were some of the things that
12 were found?
13 A. As I said, there was either just rumpling
14 or wrinkling or the mistaken impression of tight
15 sewing or I remember one customer said something
16 about heavy canvas which wasn't the case.
17 Q. Any others that you recall?
18 A. I don't remember any more.
19 Q. Do you recall any complaints about loose
20 threads?
21 A. Oh, sure, we get that from time to time.
22 Q. And what are loose threads caused by?
23 A. It can be caused by a thread that was not
24 trimmed at the end of the seam; it can be caused by
25 fibers from the inside that are naturally coming out

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1 **DIDUCH**
2 **of the seam; it can be caused by a number of things.**
3 Q. Can loose threads be caused by
4 interlining?
5 A. No.
6 Q. What about lapel pressing issues?
7 A. What about it?
8 Q. Did any customers complain about any
9 overpressing on the lapel, if you recall?
10 A. I only remember one of our salespeople
11 making a comment about one lapel that she saw.
12 Q. And do you remember what that comment
13 was?
14 A. Not the specific wording, but I remember
15 her saying something about wrong pressing around the
16 edge of the lapel.
17 Q. And who was that?
18 A. Dani Tinelli.
19 Q. Is there interlining in the lapel of a
20 Hickey Freeman suit?
21 A. There is canvas. There's not fusible
22 interlining in that portion of the lapel.
23 Q. I'll use your characterization of Dani.
24 Was her comment that there was overpressing on the
25 lapel?

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1 **DIDUCH**
2 A. As I said, I don't remember what her
3 specific comment was. She's not technical and
4 usually her comments had little bearing to the
5 actual cause, so she could say that there was
6 something here and say it's overpressing or it's not
7 really overpressing, it's just a different pressing
8 defect but it's not overpressing.
9 Q. If something were wrong with the pressing
10 of the lapel, whether it be overpressing or some
11 other form of a pressing issue, would that be
12 related or caused by interlining?
13 A. No.
14 Q. And is that because there's no
15 interlining in the lapel?
16 A. There's no fusible interlining in that
17 portion.
18 Q. Yes, that's what I'm referring to.
19 **MR. D'ANGELO:** Objection, asked and answered.
20 **THE WITNESS:** Yes.
21 **MR. D'ANGELO:** Can we go off the record for
22 two minutes?
23 (Whereupon, a short break was
24 taken.)
25

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1 **DIDUCH**
2 (Whereupon, Defendant's
3 Deposition Exhibit No. 11 was
4 marked for identification.)
5 **BY MS. MORGAN:**
6 Q. Mr. Diduch, when you've reviewed
7 Number 11, let me know.
8 A. Yes.
9 Q. In this e-mail that you wrote to
10 Alan Abramowicz dated April 29, 2017, you wrote:
11 Quote, we seem to have more trouble with
12 Dillard's garments than others, though this is
13 purely anecdotal so far. However, I wonder if the
14 rain finish, parentheses, or indeed any of the
15 performance finishes, end parentheses, that is
16 exclusive to Dillard's is making things worse.
17 Did you undertake any investigation to
18 determine if there was any truth to that thought?
19 A. Yes.
20 Q. Can you tell me about that?
21 A. First I did a visual inspection of the
22 garments that had rain finish versus the ones that
23 didn't. And, in fact, the ones that didn't have
24 that finish looked much worse. I took some swatches
25 of fabric with the rain finish and did fuse tests to

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1 **DIDUCH**
2 **compare it to other fabrics to see if there was any**
3 **kind of noticeable difference in dot transfer or in**
4 **strikeback and there wasn't anything measurable.**
5 Q. With the nonvisual testing that you did,
6 were those results memorialized anywhere?
7 **A. No.**
8 Q. And other than those two tests, did you
9 undertake any other tests?
10 **A. No.**
11 Q. You later wrote, we should -- quote, we
12 would perhaps ask the mill about this, and do some
13 testing of our own using performance finishes and
14 regular finishes, end quote.
15 The "mill" there, who is that?
16 **A. In this case, it was Loro Piana, L-o-r-o,**
17 **P-i-a-n-a.**
18 Q. And Loro Piana is -- does what for these
19 suits?
20 **A. They make fabric.**
21 Q. And is this for the Hickey Freeman suits
22 or the Daniel Cremieux suits?
23 **A. I think they make both.**
24 Q. Did you call Loro Piana?
25 **A. I asked our merchandiser about it.**

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1 **DIDUCH**
2 Q. And what did they say?
3 **A. She said she had talked to them and she**
4 **said she didn't think it would do anything.**
5 Q. And the testing that you said "of our
6 own", is that the testing you just testified about?
7 **A. Yes.**
8 Q. And did you use a performance finish --
9 **A. Yes.**
10 Q. -- on that testing?
11 And is that the rain finish you were
12 referring to?
13 **A. Yes.**
14 Q. And what is the regular finish?
15 **A. A regular finish cloth that doesn't have**
16 **any kind of rain finish or any kind of water or**
17 **stain resistant finishing.**
18 Q. Did all the suits that are the subject of
19 this litigation have some kind of finish on them?
20 **A. All fabric has a finish on it. Some of**
21 **the suits had a rain finish on them.**
22 Q. And aside from the rain finish and the
23 regular finish, was there any other kind of finish?
24 **MR. D'ANGELO: Objection.**
25 **THE WITNESS: I don't remember anything**

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1 **DIDUCH**
2 specifically branded as anything else.
3 **BY MS. MORGAN:**
4 Q. And was the rain finish exclusive to
5 Dillard's?
6 **A. Yes.**
7 Q. Going to your -- to the next paragraph,
8 you said that: Quote, I said during our call that
9 the puckering on the garments that Dillard's cleaned
10 doesn't look like the strikeback -- doesn't look
11 like strikeback to me for three reasons. First you
12 say -- let me ask you right now, do you think that
13 the puckering on the garments that Dillard's cleaned
14 was related to strikeback or not?
15 **A. No, I don't.**
16 Q. And why not?
17 **A. What I thought it was, and I specified**
18 **later in the e-mail, that it was the result of**
19 **blowing steam through a steam dummy was actually**
20 **what they were doing.**
21 **MR. NIEDERER:** Can you read that back.
22 (Whereupon, the record was read
23 as requested.)
24 **BY MS. MORGAN:**
25 Q. Here you're talking about the garments

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1 **DIDUCH**
2 that Dillard's cleaned, correct?
3 **A. Correct.**
4 Q. And so you're not referring to all
5 Dillard's garments. Just the ones they cleaned?
6 **A. That's correct.**
7 Q. And how many garments did Dillard's clean
8 that you're referring to?
9 **A. Two or three. Right now I don't**
10 **remember. It was just a tiny number.**
11 Q. Was that the suits that were cleaned
12 around the time of your Little Rock visit?
13 **A. Yes.**
14 Q. And is it -- do you have any
15 determination as to whether aside from these two or
16 three suits that Dillard's cleaned, whether any of
17 the other suits Dillard's complained about were not
18 due to strikeback?
19 **A. Can you rephrase that.**
20 Q. Sure. In this e-mail, you're referring
21 to suits that Dillard's cleaned that were damaged
22 but you didn't think it related to strikeback. Do
23 you agree with that?
24 **A. Yes.**
25 Q. Aside from these couple of suits that

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1 DIDUCH
2 Dillard's cleaned, did you believe that any other
3 suits that Dillard's complained about was not
4 related to strikeback?
5 **MR. D'ANGELO:** Objection to form.
6 **THE WITNESS:** Dillard's could have complained
7 about other suits for other reasons unrelated to
8 this if that's what you're asking.
9 **BY MS. MORGAN:**
10 Q. I'm just asking if you believe that any
11 of the Dillard's suits other than the ones that you
12 reference here that were cleaned were not -- were
13 not caused by strikeback, the damage?
14 **MR. D'ANGELO:** Objection to form.
15 **THE WITNESS:** I think that the suits that were
16 returned for strikeback actually had strikeback
17 problems on them.
18 **BY MS. MORGAN:**
19 Q. So are you aware of any other Dillard's
20 suits other than the ones that were cleaned that you
21 reference here that were not damaged by strikeback?
22 **MR. D'ANGELO:** Objection to form.
23 **THE WITNESS:** Are you only referring to the
24 suits that are subject to the litigation or suits in
25 general?

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1 DIDUCH
2 **BY MS. MORGAN:**
3 Q. That are subject to the litigation.
4 **A. I don't recall any off of the top of my**
5 **head.**
6 Q. And the ones that they cleaned that you
7 referenced here, are those also suits that are part
8 of this litigation?
9 **A. Yes.**
10 Q. You can put that away, sir.
11 (Whereupon, Defendant's
12 Deposition Exhibit No. 12 was
13 marked for identification.)
14 **BY MS. MORGAN:**
15 Q. Mr. Diduch, when you've had an
16 opportunity to look at this exhibit, let me know.
17 **A. Okay.**
18 Q. This exhibit is an e-mail from yourself
19 to Alan Abramowicz and others dated March 21, 2017.
20 In the e-mail you write:
21 Quote, regarding the QC stations, we
22 still do not have a full-time person in shipping,
23 end quote.
24 Why did Hickey Freeman not have a
25 full-time person in shipping in March of 2017?

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1 DIDUCH
2 **A. We never had one prior to that.**
3 Q. Were you in the process of trying to
4 recruit a full-time person in shipping?
5 **A. Not necessarily to recruit, but find**
6 **somebody within our organization that we could put**
7 **there.**
8 Q. And did you ultimately find somebody?
9 **A. Yes.**
10 Q. And who's that?
11 **A. Rashmi Nepali, last name. I can't**
12 **remember.**
13 Q. Rashmi?
14 **A. Rashmi.**
15 Q. Oh, Rashmi, okay.
16 And when did -- to your knowledge, when
17 did Hickey Freeman start to wish to have a full-time
18 person in shipping?
19 **MR. D'ANGELO:** Just note my objection to form.
20 **THE WITNESS:** I can't pinpoint the time.
21 **BY MS. MORGAN:**
22 Q. Do you know if it was in 2017?
23 **A. I can't say when we first began to want**
24 **somebody there.**
25 Q. And do you know why Hickey Freeman wanted

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1 DIDUCH
2 a full-time person in shipping?
3 **MR. D'ANGELO:** Objection to form.
4 **THE WITNESS:** I felt there were things that
5 were showing up in stores that I was convinced
6 weren't leaving the pressing area or the factory
7 looking like that, that either something was
8 happening in shipping or in transport or something,
9 so I just wanted an extra layer of eyes on things to
10 go through in the shipping after we left it -- let
11 it out of the shop.
12 **BY MS. MORGAN:**
13 Q. And before Rashmi became the full-time
14 person in shipping, was it part-time individuals
15 doing that job?
16 **A. We had put some people into the shipping,**
17 **yes, part-time or when they had downtime in the**
18 **factory or something, but it wasn't somebody who was**
19 **tasked all the time to be in shipping looking at**
20 **garments.**
21 Q. What is Rashmi's title?
22 **A. She doesn't really have a title.**
23 Q. Does she have any name to the post that
24 is related to what she does in shipping?
25 **A. She's a QC inspector I guess.**

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1 **DIDUCH**
2 Q. You also noted:
3 Quote, we are also in the middle of
4 rehangng everything since I found that the garments
5 were all squished together so Robert has asked that
6 everything be spaced out, parentheses, there are
7 spacers on the bars which were not being used
8 correctly, end parentheses, end quote.
9 So the squishing together, what did that
10 entail?
11 **A. When garments are hung too close together**
12 **and they're pressed together, certain portions of**
13 **the sleeve and the shoulder can get crushed and**
14 **create little wrinkles in them.**
15 Q. So that because too many suits are put in
16 a box?
17 **A. No. These are hanging on bars together**
18 **and there are too many suits too close together on**
19 **these bars.**
20 Q. Is this in the shipping box?
21 **A. In the shipping room --**
22 Q. Oh, in the shipping room.
23 **A. -- before it even gets in the shipping**
24 **box.**
25 Q. Okay. Does Hickey Freeman have any kind

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1 **DIDUCH**
2 of protocol about how many suits can be on a bar at
3 a time in the shipping room?
4 **A. Not per bar, but there's a corrugated**
5 **spacing system and they're supposed to leave one**
6 **empty spot between suits. In this case, they**
7 **didn't -- they had a suit in every spot rather than**
8 **leaving an empty spot between them.**
9 Q. And are we -- excuse me, are you
10 referring to the -- here where you're referring to
11 the garments, are these suits that ended up being
12 the subject of this litigation?
13 **A. In that particular case, the ones that**
14 **were squished together, I don't remember.**
15 Q. And the spacers on the bars, that's what
16 you just testified about with the corrugated spaces?
17 **A. Yes.**
18 Q. Are there corrugated spaces -- strike that.
19 Is there a bar in the shipping box that
20 the suits are hung on?
21 **A. Yes.**
22 Q. And does that have the corrugated spaces?
23 **A. No.**
24 Q. So is there anything to prevent the suits
25 from squishing together in the shipping box?

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1 **DIDUCH**
2 **A. When the suits are placed in the box,**
3 **they're placed on a horizontal bar and then**
4 **there's -- I don't know how to describe it, but**
5 **another piece of plastic that's slid over them and**
6 **then it's clamped into place, and so the tension is**
7 **supposed to keep the hangers from falling off the**
8 **bars and from sliding around too close to each other.**
9 Q. Does that clamp have a name or anything
10 in particular?
11 **A. It may. I don't know.**
12 Q. And because of the squishing that you
13 referred to in this e-mail, were some suits required
14 to be re-pressed?
15 **A. Yes.**
16 Q. Going to Exhibit 2, can you turn to that,
17 please. Can you review items 24 through 32 and let
18 me know if you're in a position to testify about any
19 of those topics?
20 **MR. D'ANGELO:** Just note my objection to this
21 line of questioning on the same basis that I
22 objected earlier in the deposition; namely, that the
23 new and newly expanded topics were noticed less than
24 48 hours before the 30(b)(6) deposition was
25 scheduled to start and this was the subject of an

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1 **DIDUCH**
2 e-mail exchange between counsel prior to today's
3 deposition.
4 **BY MS. MORGAN:**
5 Q. And, Mr. Diduch, let me also give you as
6 a reference a copy of the complaint if you need it
7 because some of these topics reference a specific
8 paragraph in the complaint that was filed in June
9 of --
10 **MR. D'ANGELO:** Do you want to mark a copy?
11 **MS. MORGAN:** Am I marking a copy? Yeah. June
12 of --
13 **MR. D'ANGELO:** Just for the sake of
14 completeness.
15 **MS. MORGAN:** -- 2017. Yeah, yeah, I brought
16 copies for that purpose.
17 (Whereupon, Defendant's
18 Deposition Exhibit No. 13 was
19 marked for identification.)
20 **BY MS. MORGAN:**
21 Q. And, Mr. Diduch, perhaps we can go one by
22 one. If we want to start with Number 24.
23 **A. This I can't tell you off the top of my**
24 **head.**
25 Q. And "this" you mean Number 24?

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1 DIDUCH
2 **A. Number 24.**
3 Q. And let me also give you, sir, as
4 Number 13 a copy of the complaint. There's some --
5 something got it on it. I must have put some on
6 there.
7 So as you can see, these reference
8 certain paragraphs. If you need to look at them in
9 the complaint, you can certainly do so.
10 So 24 you believe you could not testify
11 about?
12 **A. No.**
13 Q. What about 25?
14 **A. Not the precise number, no.**
15 Q. Do you know the approximate number of
16 that?
17 **A. We use about three different kinds of**
18 **canvas, but shell fabric I can't tell you.**
19 Q. And as you're looking at these, if
20 there's any portion of the question that you can
21 answer, please do so.
22 So for 25, it was three different kinds
23 of canvas?
24 **A. Approximately.**
25 Q. Approximately. And --

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1 DIDUCH
2 **MR. D'ANGELO:** Can we go off the record for
3 one second?
4 **MS. MORGAN:** I wasn't done talking. I was
5 in -- right in the middle.
6 **MR. D'ANGELO:** I wasn't going to confer with
7 him. I was going to do something that might be
8 easier, but go ahead.
9 **BY MS. MORGAN:**
10 Q. And you said for the shell fabric, you
11 were unclear?
12 **A. Yes.**
13 **MS. MORGAN:** Now you can say your comment.
14 **MR. D'ANGELO:** Off the record.
15 (Whereupon, a discussion was had
16 off the record.)
17 **MS. MORGAN:** Yeah, if to the extent -- and we
18 can put this on the record, I'll say this, but to
19 the extent that you can answer a portion of it or to
20 the extent that -- are you putting this on?
21 **THE REPORTER:** Yeah.
22 **MS. MORGAN:** That's fine. That's fine.
23 **MR. D'ANGELO:** Wait, sorry, we're on now or
24 we're off?
25 **MS. MORGAN:** As soon as I said we're on, she

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1 DIDUCH
2 went back on. It's okay.
3 **BY MS. MORGAN:**
4 Q. So to the extent that you can answer a
5 portion of these, to the extent that you can refer
6 to a document that you know about that would answer
7 the question or, you know, any other avenue you can
8 think of that would provide some response, please do
9 so.
10 **A. The exact composition of the fiber**
11 **content in Number 24 I think would be located on the**
12 **statement. We have provided many statements to you,**
13 **but I wasn't involved in the production, so I can't**
14 **say for sure that all of them are included. I would**
15 **have to consult with people to see if they're all in**
16 **there. So knowing that, if we have all of the**
17 **statements, I think we could go through all however**
18 **many of them there are and tabulate the composition**
19 **of all those fabrics.**
20 Q. The statement that you're referring to,
21 is there another word that Hickey Freeman uses to
22 describe that document?
23 **A. Roy sometimes refers to it as a work order.**
24 Q. Okay. Thank you.
25 So you believe if one were to look at the

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1 DIDUCH
2 statement or work order, one would be able to figure
3 out the answer to Number 24?
4 **A. I think the content is on this statement.**
5 **You would then have to go through all of the**
6 **statements for all of the fabrics that had that 630,**
7 **and I don't know of a summary saying there were this**
8 **number of statements, so we couldn't be sure that we**
9 **had all of them. It would require a little bit of**
10 **work.**
11 Q. Okay. Let's go to --
12 **A. So 25.**
13 Q. -- 25.
14 **A. The precise number of different**
15 **canvas/shell fabric model or types used by**
16 **Hickey Freeman. I'm not aware of a report that says**
17 **how many fabric types. Again, if all the statements**
18 **have been provided, we could count them. It may**
19 **have been tabulated. I don't know.**
20 Q. And if we had the statements, would that
21 be a precise number after tabulating them all or --
22 **A. Assuming we have them all. I would want**
23 **some method of checking it against some of the**
24 **record to make sure we had them all.**
25 Q. And can you think of any method that's

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1 DIDUCH
2 available to Hickey Freeman to determine if we had
3 all the statements?
4 **A. I'm not aware of them because I was never**
5 **involved in that side of the business.**
6 Q. The statements?
7 **A. The statements and any records of cutting**
8 **and production planning, all that side of it, that**
9 **was Roy and Lynda.**
10 **MR. D'ANGELO:** Go off the record for a moment
11 again, please.
12 (Whereupon, a discussion was had
13 off the record.)
14 **BY MS. MORGAN:**
15 Q. So now we're on -- are you done with
16 Number 25?
17 **A. Done with Number 25.**
18 **Number 26, yes, the Dillard's QR program**
19 **had a rain system finish applied to it.**
20 Q. And you said the Dillard's what?
21 **A. QR, the quick replenishment.**
22 Q. Okay. Had a rain finish?
23 **A. Yes. I can't say for certain if there**
24 **were other special finishes on any other cloth.**
25 **There wasn't any significant number of garments made**

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1 **DIDUCH**
2 **with a finish, but there may have been a couple in**
3 **there.**
4 Q. And with the Dillard's quick
5 replenishment, was that Daniel Cremieux and
6 Hickey Freeman?
7 **A. No, that was just Hickey Freeman.**
8 Q. And would that also be on the statement?
9 **A. It might be.**
10 Q. Other than the statement, where else
11 would the detailed finish be?
12 **A. Somewhere within the AS400.**
13 Q. Anywhere else?
14 **A. Not that I know of, but I'm not**
15 **intimately aware of all those details.**
16 Q. Okay. Can you provide any other
17 information about 26?
18 **A. No.**
19 Q. So for 27?
20 **A. The specific name, make and model of the**
21 **fusing press used to do the skin fusing was the**
22 **Kannegiesser CX1400.**
23 Q. And is that the blue one or the green one?
24 **A. That's the blue one.**
25 Q. Okay. Do you want to do -- go to 28?

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1 DIDUCH
2 **A. I really don't have any idea where to**
3 **find this stuff. The sent to customers and**
4 **returned, there would be invoices and RAs. Dates of**
5 **when the suits were manufactured, I'm not sure where**
6 **to find that.**
7 Q. You don't know?
8 **A. I don't know where to find that. I know**
9 **it can be found. I just don't know where.**
10 Q. And do you know who would know that
11 information if you had to ask somebody?
12 **A. Unfortunately, both people are no longer**
13 **with us. I could do some digging and figure it out.**
14 Q. Were you referring to Roy Nicholls?
15 **A. Yes.**
16 Q. And who is the second person?
17 **A. Lynda Forken.**
18 Q. Was Lynda replaced?
19 **A. Lynda's job was absorbed by Roy and**
20 **Mark Donovan.**
21 Q. So is Mark Donovan doing Roy's job now?
22 **A. No.**
23 Q. So would Mark Donovan know Number 28
24 essentially?
25 **A. No.**

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1 **DIDUCH**
2 Q. Well, let's move on to 29.
3 **A. Information concerning all customers. So**
4 **what information is --**
5 Q. This is seeking the names of all customers.
6 **MR. D'ANGELO:** I mean, that's in our
7 production, so I don't really --
8 **THE WITNESS:** Yeah, and I don't know where
9 that is.
10 **MR. D'ANGELO:** It doesn't seem like an
11 efficient way to get the information.
12 **BY MS. MORGAN:**
13 Q. Aside from what's been produced, did
14 Hickey Freeman do any -- did Hickey Freeman track
15 which customers potentially got the 630 -- damaged
16 suit with the 630?
17 **A. I don't know what was done with that.**
18 **I know reports were provided in production, but I am**
19 **not aware of them and not familiar with them.**
20 Q. And what reports were you referring to
21 that were provided with production?
22 **A. Well, okay, I assume that they were**
23 **provided, that there was a list of customers, and I**
24 **thought I had seen something similar once.**
25 Q. But is that a guess?

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1 DIDUCH
2 A. It's probably a guess, yes.
3 Q. Okay. So let's go to Number 30.
4 A. Information about shipment -- I'm
5 mumbling as I read aloud.
6 I can speak to some of this and maybe not
7 entirely accurately. Depending on how many suits
8 are going to any given place, they may be shipped
9 individually in a box, they may ship it two to a
10 box, or they may be shipped two to a box. They are
11 shipped on hangers. They have a clear plastic poly
12 bag around them. They generally have tissue paper
13 that's wadded up and inserted inside the shoulder
14 and the sleeve. The boxes, when it's multiple
15 garments, have that clamp thing that I don't know
16 what to call. The boxes are labeled as "this side
17 up" and "do not tip", but we know that they do. The
18 individual shipping boxes don't have a direction or
19 they don't stand up. They just -- they're flat
20 boxes, so they get tossed onto conveyor belts.
21 That's about the extent of my knowledge of the
22 shipping.
23 Q. The individual boxes, do you mean if
24 you're shipping only one unit, it's a box by itself
25 that's flat?

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1 DIDUCH
2 A. That's correct.
3 Q. If there's two suits, do they use that
4 flat box?
5 A. There's a slightly bigger box.
6 Q. That's flat?
7 A. That's more or less flat. It's coffin
8 shaped.
9 Q. When does the number of suits require
10 this vertical box?
11 A. We either ship one or two in the small
12 box or we ship -- and I'm not sure if it's six or
13 seven in the larger box.
14 Q. What about three suits, what is that
15 shipped in?
16 A. I believe that would be in a two and a one.
17 Q. Oh, so it's once it gets to six, that's
18 in a standing box?
19 A. Yes. I could be wrong.
20 Q. On the "do not tip", how do you know that
21 they tip?
22 A. We've had discussions with the shippers,
23 with UPS and FedEx, and also they come in sometimes
24 pretty beat up.
25 Q. To the customer?

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1 DIDUCH
2 A. Yes.
3 Q. So in Number 30 where we say the shipper,
4 to the shippers you're aware of, you said UPS and
5 what was the other?
6 A. FedEx.
7 Q. And are you aware of any other shippers?
8 A. I know we have some kind of freight
9 forwarding, but I don't know anything about it.
10 Q. Let's go to Number 31, please.
11 A. I think we've covered that. I'm not sure
12 what else we're looking for here.
13 Q. I would agree with that. I think we
14 covered 31.
15 For 32, do you know about the location of
16 any --
17 A. Not of all of them.
18 Q. -- defective suits?
19 A. I know there are some defective suits in
20 Rochester. I can't speak to the exact number, nor
21 can I speak to the location of the rest of them.
22 Q. Where are they in Rochester?
23 A. There are a couple in Roy's old office
24 and there are a group of them in what we call the
25 old blue pencil office.

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1 DIDUCH
2 Q. The old blue pencil office?
3 A. That's correct.
4 Q. And anywhere else?
5 A. I don't think so.
6 Q. Do you know approximately how many are in
7 Roy's old office?
8 A. There may be half a dozen.
9 Q. And what about the old blue pencil office?
10 A. I'm guesstimating at a couple dozen, and
11 I can't speak to 33.
12 MS. MORGAN: So let me go sit by myself in a
13 room and consult my notes and I'll return.
14 (Whereupon, a short break was
15 taken.)
16 BY MS. MORGAN:
17 Q. I have a couple more questions on the 630
18 data sheet, but that's about it. I think it was, I
19 want to say, three or four.
20 After you've taken a look at that data
21 sheet, sir, let me know when you've had an
22 opportunity to review the Exhibit Number 3.
23 A. Yes.
24 Q. Do you see the paragraph at the bottom of
25 this exhibit?

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1 DIDUCH
2 **A. Yes.**
3 Q. Okay. It says, quote, in view of the
4 wide variety of existing fabrics and other materials
5 used in the clothing industry, we recommend that
6 industrial use, that complete tests are carried out
7 with the fabrics and other materials to be used, and
8 on the machinery that will be used, end quote.
9 When you had previously looked at the 630
10 data sheet, do you recall reading this paragraph?
11 **A. I recall seeing it on many of these data**
12 **sheets. I don't remember if I saw this one in**
13 **particular.**
14 Q. Did Hickey Freeman ever perform a
15 complete test as suggested in this Veratex data
16 sheet?
17 **MR. D'ANGELO:** Objection to the form.
18 **THE WITNESS:** Every new type of fabric that we
19 manufacture, we will do at least a prototype and a
20 sample, and that is our testing process. We make it
21 up, we put it through the exact production scenario,
22 and then we evaluate it. So we do do this.
23 **BY MS. MORGAN:**
24 Q. To your knowledge, has anybody from
25 Hickey Freeman asked Veratex what they mean by the

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1 DIDUCH
2 phrase "complete test"?
3 **A. No.**
4 Q. And in the portion of this paragraph
5 where it states that testing should be carried out
6 on the machinery that will be used, does
7 Hickey Freeman test its machinery on a regular
8 basis?
9 **A. Test its machinery?**
10 Q. Yes.
11 **MR. D'ANGELO:** Objection to form.
12 **THE WITNESS:** We address the testing that we
13 do with the fusing machines. I'm not sure what that
14 refers to this. That they're saying tested on the
15 machines that you're going to be using. They're
16 saying you test this material on the specific
17 machines you're going to use to manufacture the
18 suits, meaning if you have another set of presses
19 over here, don't press it on presses. Test it on
20 the line that you're going to do it.
21 **BY MS. MORGAN:**
22 Q. Let's take that adoption and does -- did
23 Hickey Freeman do that with the machinery it was
24 going to use prior to its use of the 630 for every
25 production run?

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1 DIDUCH
2 **A. Yes.**
3 Q. And aside for every production run, does
4 Hickey Freeman routinely check the status of the
5 machines whether it's used in that specific
6 production run or not, just as a regular course?
7 **MR. D'ANGELO:** Objection, asked and answered.
8 **THE WITNESS:** There is a maintenance schedule.
9 I'm not sure exactly what it is.
10 **BY MS. MORGAN:**
11 Q. Have you seen the maintenance schedule
12 before?
13 **A. No.**
14 Q. How do you know that a maintenance
15 schedule exists?
16 **A. They've discussed that on a certain**
17 **interval that I don't remember. They need to check**
18 **the covers of the presses for accumulated debris,**
19 **for example. Whether it's written down or it's**
20 **oral, I don't know, but --**
21 Q. And by "they've discussed", do you mean
22 the mechanics?
23 **A. The mechanics and supervisors.**
24 Q. And the testing that you just referenced
25 that Hickey Freeman does on the machinery that will

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1 DIDUCH
2 be used in the production with the 630 interlining,
3 that is not recorded?
4 **A. No.**
5 **MS. MORGAN:** Okay. I have no further
6 questions. However, we are reserving our rights to
7 re-question Mr. Diduch on just for the 30(b)6, not
8 individually, for certain topics that he was not
9 prepared on.
10 **MR. D'ANGELO:** Note my continued objection
11 given the untimely service of an updated notice of
12 deposition.
13 **MS. MORGAN:** And some of those topics included
14 topics that were in the February 3, 2018 notice.
15 **MR. D'ANGELO:** I'll note my disagreement with
16 that, but that's -- can we go off the record for a
17 moment?
18 (Whereupon, a discussion was had
19 off the record.)
20 **MS. MORGAN:** I have nothing further.
21 Can you just read back the last sentence Frank
22 said. Thank you.
23 (Whereupon, the record was read
24 as requested.)
25 **MS. MORGAN:** So I have nothing further.

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1 DIDUCH
2 **MR. D'ANGELO:** So counsel discussed off the
3 record some additional materials that Hickey Freeman
4 will make available for circulation among the
5 parties -- division among the parties and testing as
6 they see fit pursuant to a testing protocol to be
7 agreed upon by the parties, specifically the Veratex
8 header with old sample swatches of 630 interlining
9 and lengths of interlining that may or may not be
10 old 630 interlining that were recently located that
11 we recently were made aware of.
12 So the parties have been coordinating on
13 testing protocols with respect to other materials
14 and will make those materials available for testing
15 as well pursuant to a similar protocol, okay.
16 **MS. MORGAN:** Okay. Off the record.
17 (Whereupon, a discussion was had
18 off the record.)
19 (Time noted: 6:27 p.m.)
20
21
22
23
24
25

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1 A C K N O W L E D G M E N T
2
3 S T A T E O F N E W Y O R K)
4)ss:
5 C O U N T Y O F)
6
7 I, ROBERT JEFFERY DIDUCH, hereby certify
8 that I have read the transcript of my testimony
9 taken under oath in my deposition of June 21, 2018;
10 that the transcript is a true, complete and correct
11 record of my testimony, and that the answers on the
12 record as given by me are true and correct.
13
14
15
16 ROBERT JEFFERY DIDUCH
17
18
19 Signed and Subscribed to before me,
20 this day of , 2018.
21
22
23
24 Notary Public, State of
25

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1 C E R T I F I C A T E
2
3 S T A T E O F N E W Y O R K)
4)ss:
5 C O U N T Y O F N E W Y O R K)
6
7 I, KAREN E. RIGONI, CSR, a Notary Public
8 within and for the State of New York, do hereby
9 certify:
10 That ROBERT JEFFERY DIDUCH, the witness
11 whose deposition is herein before set forth, was
12 duly sworn by me and that such deposition is a true
13 record of the testimony given by such witness.
14 I further certify that I am not related
15 to any of the parties to this action by blood or
16 marriage; and that I am in no way interested in the
17 outcome of this matter.
18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 2nd day of July, 2018.
20
21
22
23
24 KAREN E. RIGONI, CSR
25 Commission Number: 01RI6245518
Expires: 07/25/2019

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1 *** ERRATA SHEET ***
2 ELLEN GRAUER COURT REPORTING CO., LLC
3 126 East 56th Street, Fifth Floor
4 New York, New York 10022
212-750-6434
5 NAME OF CASE: HICKEY FREEMAN vs. CHARGEURS
6 DATE OF DEPOSITION: JUNE 21, 2018
7 NAME OF WITNESS: ROBERT JEFFERY DIDUCH
8
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10
11
12
13
14
15
16
17
18
19
20
21
22 Subscribed and sworn before me
23 this day of , 2018
24
25 (Notary Public) My Commission Expires:

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